(23,016, 23,017)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

No. 522.

CHARLES WILSON, ALIAS CHARLES WILLARD,
PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

No. 523.

CATHERINE WILSON, ALIAS ZOE WILLARD,
PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

INDEX.

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JUNE 4, 1913.

1 To the United States of America:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at the City of Washington, D. C., within thirty days from this date, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Northern District of Illinois, wherein Charles Wilson alias Charles Willard is plaintiff in error and the United States of America is the defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward D. White, Chief Justice of the United States, this 23rd day of December, 1911.

WILLIAM R. DAY,
Justice of the Supreme Court.

Received copy of above notice this 26th day of December at 9:45 a. m.

J. H. WILKERSON,
U. S. Attorney.

2 To the United States of America:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at the City of Washington, D. C., within thirty days from this date, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Northern District of Illinois, wherein Catherine Wilson alias Zoe Willard is plaintiff in error and the United States of America is the defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward D. White, Chief Justice of the United States, this 23rd day of December, 1911.

WILLIAM R. DAY,
Justice of the Supreme Court.

Received copy of above notice this 26th day of December at 9:45 A. M.

J. H. WILKERSON,
U. S. Attorney.

3 Pleas had at a regular term of the District Court of the United States for the Eastern Division of the Northern District of Illinois, begun and held in the United States court rooms, in the city of Chicago, in the division and district aforesaid, on the first Monday of July (it being the third day thereof), in the year of our Lord one thousand nine hundred and eleven and of the Independence of the United States of America the 136th year.

Present, the Honorable George A. Carpenter, Judge of said Court, presiding; Luman T. Hoy, United States Marshal for said District; and T. C. MacMillan, Clerk of said Court.

4 4798.

THE UNITED STATES OF AMERICA
vs.
ZOE WILSON, alias ZOE WILLARD, and CHARLES WILSON, alias CHARLES WILLARD.

Be it remembered that heretofore, to wit, on the 23rd day of December, A. D. 1911, there was had and entered of record in said cause, by the Judge of the District Court of the United States of America for the Northern District of Illinois, an order to file indictment; said order being in the words and figures following, to wit:

4798.

THE UNITED STATES
vs.
ZOE WILSON and CHARLES WILSON.

Come the grand jury this day and returns in open Court an indictment against Zoe Wilson and Charles Wilson, the defendants herein, whereupon on motion of the United States attorney it is ordered by the court that said indictment be filed and the cause placed upon the dockets of this court.

And afterwards, to wit, on the 23rd day of December, A. D. 1911, the said Indictment was filed; same being in the words and figures following, to wit:

5 UNITED STATES OF AMERICA,
Northern District of Illinois, Eastern Division, ss:

In the District Court Thereof, July Term, A. D. 1911.

The grand jurors for the United States of America, impaneled and sworn in the district court of the United States of America for the Eastern Division of the Northern District of Illinois at the July A. D. 1911 term thereof, and inquiring for that division and dis-

trict, upon their oath present, that one Zoe Wilson, otherwise known as Zoe Willard, and one Charles Wilson, otherwise known as Charles Willard, each of the city of Chicago, in the said division and district, on the eighteenth day of May in the year of our Lord nineteen hundred and eleven, at Chicago aforesaid, unlawfully and feloniously did knowingly cause to be transported in interstate commerce, that is to say, from Milwaukee in the state of Wisconsin to Evanston in the State of Illinois, into and through the said Eastern Division of the Northern District of Illinois, over the railway route of a certain corporation common carrier, to wit, the Chicago and Milwaukee Electric Railway Company, a corporation organized under the laws of the state of Wisconsin, which corporation common carrier was then and there engaged in the transportation of persons by railroad over its railway route from Milwaukee in the State of Wisconsin to Evanston in the State of Illinois under a common arrangement with certain other corporation common carriers, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the State of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Illinois, for a continuous carriage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid, a certain woman, to wit, Flossie Dion, for the purposes of prostitution; against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

6 2. And the grand jurors aforesaid, upon their oath aforesaid, do further present that one Zoe Wilson, otherwise known as Zoe Willard, and one Charles Wilson, otherwise known as Charles Willard, each of the city of Chicago, in the said division and district, on the eighteenth day of May in the year of our Lord nineteen hundred and eleven, at Chicago aforesaid, unlawfully and feloniously did knowingly cause to be transported in interstate commerce, that is to say, from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, into and through the said Eastern Division of the Northern District of Illinois, over the railway routes of certain corporation common carriers, to wit, the Chicago and Milwaukee Electric Railway Company, a corporation organized under the laws of the state of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Illinois, which said corporation common carriers were then and there engaged in the transportation of persons by railroad over their respective railway routes from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois under a common arrangement between and with each other, for a continuous carriage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid, a certain woman, to wit, Frances Vancel, for the purpose of prostitution; against the peace and dignity of the said United States, and con-

trary to the form of the statute of the same in such case made and provided.

7 3. And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, on the eighteenth day of May, in the year of our Lord Nineteen Hundred and Eleven, at Chicago in the said division and district, unlawfully and feloniously did knowingly aid in obtaining transportation for a certain woman, to wit, Flossie Dion, in interstate commerce, that is to say, from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, into and through the said eastern division of the northern district of Illinois, over the railway route of a certain corporation common carrier, to wit, the Chicago, and Milwaukee Electric Railway Company, a corporation organized under the laws of the state of Wisconsin, which corporation common carrier was then and there engaged in the transportation of persons by railroad over its railway route from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois under a common arrangement with certain other corporation common carriers, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the State of Illinois, for a continuous carriage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid, for the purpose of prostitution; against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

8 4. And the grand jurors aforesaid, upon their oath aforesaid do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, on the eighteenth day of May, in the year of our Lord Nineteen Hundred and Eleven, at Chicago in the said division and district, unlawfully and feloniously did knowingly aid in obtaining transportation for a certain woman, to wit, Frances Van-cel, in interstate commerce, that is to say, from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, into and through the said eastern division of the northern district of Illinois, over the railway routes of certain corporation common carriers, to wit, the Chicago, and Milwaukee Electric Railway Company, a corporation organized under the laws of the state of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the State of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Illinois, which said corporation common carriers were then and there engaged in the transportation of persons by railroad over their respective railway routes from Milwaukee in the state of Wisconsin to Evanston in the State of Illinois under a common arrangement between and with each other, for a continuous car-

riage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid, for the purpose of prostitution; against the peace and dignity of the said United States and contrary to the form of the statute of the same in such case made and provided.

9 5. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that one Zoe Wilson, otherwise known as Zoe Willard, and one Charles Wilson, otherwise known as Charles Willard, each of the City of Chicago, in the said division and district, on the eighteenth day of May in the year of our Lord nineteen hundred and eleven, at Chicago aforesaid, unlawfully and feloniously did knowingly cause to be transported in interstate commerce, that is to say, from Milwaukee in the state of Wisconsin to Evanston in the State of Illinois, into and through the said Eastern Division of the Northern District of Illinois, over the railway route of a certain corporation common carrier, to wit, the Chicago and Milwaukee Electric Railway Company, a corporation organized under the laws of the state of Wisconsin, which corporation common carrier was then and there engaged in the transportation of persons by railroad over its railway route from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois under a common arrangement with certain other corporation common carriers, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the States of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Illinois, for a continuous carriage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid, a certain girl and a certain woman, to wit, one Flossie Dion, for the purpose of prostitution; and the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, on the said eighteenth day of May in the same year nineteen hundred and eleven, at Chicago in said division and district, unlawfully and feloniously did knowingly cause the said Flossie Dion to be transported in interstate commerce, as hereinabove in this count of this indictment set forth, by furnishing a certain person, to wit, Earl Corder, otherwise known as James Earl Corder, a sum of money, to wit, the sum of eleven dollars, with which to pay for the transportation of the said Flossie Dion from Milwaukee aforesaid to Evanston aforesaid; against the peace and dignity of the said United States and contrary to the form of the statute of the same in such case made and provided.

10 6. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that one Zoe Wilson, otherwise known as Zoe Willard, and one Charles Wilson, otherwise known as Charles Willard, each of the City of Chicago, in the said division and district, on the eighteenth day of May in the year of our Lord nineteen hundred and eleven, at Chicago aforesaid, unlawfully and feloniously did knowingly cause to be transported in interstate com-

merce, that is to say, from Milwaukee in the state of Wisconsin to Evanston in the State of Illinois, into and through the said Eastern Division of the Northern District of Illinois, over the railway routes of certain corporation common carriers, to wit, the Chicago and Milwaukee Electric Railway Company, a corporation organized under the laws of the state of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company a Corporation organized under the laws of the state of Illinois, which said corporation common carriers were then and there engaged in the transportation of persons by railroad over their respective railway routes from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois under a common arrangement between and with each other, for a continuous carriage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid, a certain girl and a certain woman, to wit, Francis Van-cel, for the purpose of prostitution; and the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Zoe Wilson, otherwise known as Zoe Willard and the said Charles Wilson, otherwise known as Charles Willard, on the said eighteenth day of May in the same year nineteen hundred and eleven, at Chicago in said division and district, unlawfully and feloniously did knowingly cause the said Francis Van-cel to be transported in interstate commerce, as hereinabove in this count of this indictment set forth, by furnishing a certain person, to wit, one Earl Corder, otherwise known as James Earl Corder, a sum of money, to wit, the sum of eleven dollars, with which to pay for the transportation of the said Frances Van-cel from Milwaukee aforesaid to Evanston aforesaid; against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

11 7. And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, on the eighteenth day of May in the year of our Lord nineteen hundred and eleven, at Chicago in the said division and district, unlawfully and feloniously did knowingly aid in obtaining transportation for a certain girl and a certain woman, to wit, one Flossie Dion, in interstate commerce, that is to say, from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, into and through the said eastern division of the northern district of Illinois, over the railway route of a certain corporation common carrier, to wit, the Chicago and Milwaukee Electric Railway Company, a corporation organized under the laws of the state of Wisconsin, which corporation common carrier was then and there engaged in the transportation of persons by railroad over its railway route from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, under a common arrangement with certain other corporation common carriers, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized

under the laws of the state of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Illinois, for a continuous carriage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid, for the purpose of prostitution; and the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, on the said eighteenth day of May in the same year nineteen hundred and eleven, at Chicago aforesaid, unlawfully and feloniously did knowingly aid in obtaining transportation for the said Flossie Dion in interstate commerce, as hereinabove in this count of this indictment set forth, by furnishing a certain person, to wit, one Earl Corder, otherwise known as James Earl Corder, a sum of money, to wit, the sum of eleven dollars, with which to pay for the transportation of the said Flossie Dion from Milwaukee aforesaid to Evanston aforesaid; against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

12 8. And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, on the eighteenth day of May in the year of our Lord nineteen hundred and eleven, at Chicago in the said division and district, unlawfully and feloniously did knowingly aid in obtaining transportation for a certain girl and a certain woman, to wit, one Francis Van-cel, in interstate commerce, that is to say, from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, into and through the said eastern division of the northern district of Illinois, over the railway route of a certain corporation common carrier, to wit, the Chicago and Milwaukee Electric Railway Company, a corporation organized under the laws of the state of Wisconsin, which corporation common carrier was then and there engaged in the transportation of persons by railroad over its railway route from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, under a common arrangement with certain other corporation common carriers, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Wisconsin, and, to wit, the Chicago and Milwaukee Electric Railroad Company, a corporation organized under the laws of the state of Illinois, for a continuous carriage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid, for the purpose of prostitution; and the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, on the said eighteenth day of May in the same year nineteen hundred and eleven, at Chicago aforesaid, unlawfully and feloniously did knowingly aid in obtaining transportation for the said Francis Van-cel in interstate commerce, as hereinabove in this count of this indictment set forth, by furnishing a

certain person, to wit, one Earl Corder, otherwise known as James Earl Corder, a sum of money, to wit, the sum of eleven dollars, with which to pay for the transportation of the said Francis Van-cel from Milwaukee aforesaid to Evanston aforesaid; against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case and provided.

13 9. And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, each late of the said city of Chicago, hereafter in this count of this indictment called the defendants, on, to wit, the first day of May, in the year nineteen hundred and eleven, at Chicago aforesaid, in the division and district aforesaid, unlawfully, wilfully and feloniously did conspire, combine, confederate and agree together and with one Earl Corder, otherwise known as James Earl Corder, late of the said City of Chicago, to commit an offense against the said United States, that is to say, the said defendants on, to wit, the said first day of May, nineteen hundred and eleven, at Chicago aforesaid, unlawfully did conspire, combine, confederate and agree together and with the said Earl Corder, otherwise known as James Earl Corder, to unlawfully and feloniously transport and cause to be transported, in interstate commerce, from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, and into and through the said eastern division of the said northern district of Illinois, of certain women and certain girls, to wit, one Flossie Dion and one Francis Van-cel, for the purpose of prostitution, over and by means of the railroad routes of certain corporation common carriers to wit, the Chicago and Milwaukee Electric Railway Company, a corporation organized and existing under and by virtue of the laws of the state of Wisconsin, the Chicago and Milwaukee Electric Railroad Company, a corporation organized and existing under and by virtue of the laws of the state of Wisconsin, and the Chicago and Milwaukee Electric Railroad Company, a corporation organized and existing under and by virtue of the laws of the state of Illinois, which said corporation common carriers were then and there engaged in the transportation of persons by railroad over their respective railway routes from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois under a common arrangement between and with each other, for a continuous carriage and transportation of persons in interstate commerce from Milwaukee aforesaid to Evanston aforesaid.

14 And the grand jurors aforesaid, upon their oath aforesaid, do further present that in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, the said defendants, on, to wit, the fifteenth day of May, in the year nineteen hundred and eleven, at Chicago aforesaid, did furnish, deliver and give to the said Earl Corder, otherwise known as James Earl Corder, a sum of money, to wit, the sum of eleven dollars, with which to pay for the transportation of the said Flossie Dion and the said Frances Van-cel and each of

them, in intertate commerce, from Milwaukee aforesaid to Evanston aforesaid.

And the grand jurors aforesaid, upon their oath aforesaid, do furthere present that in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, the said defendants on, to wit, the fifteenth day of May, in the year nineteen hundred and eleven, at Chicago aforesaid, did urge, incite and solicit the said Earl Corder, otherwise known as James Earl Corder, to transport and cause to be transported in interstate commerce, from Milwaukee in the state of Wisconsin to Evanston in the state of Illinois, the said Flossie Dion and the said Frances Van-cel.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, the said defendants, on, to wit, the fifteenth day of May, in the year nineteen hundred and eleven, at Chicago aforesaid, did instruct and request the said Earl Corder, otherwise known as James Earl Corder, to proceed to Milwaukee aforesaid for the purpose of inducing and influencing the said Flossie Dion and the said Frances Van-cel to allow themselves to be transported in interstate commerce from Milwaukee aforesaid to Evanston aforesaid; against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

15 10. And the grand jurors aforesaid, upon their oath aforesaid do further present that the said Zoe Wilson, otherwise known as Zoe Willard, and the said Charles Wilson, otherwise known as Charles Willard, hereafter in this count of this indictment called the defendants, on, to wit, the first day of May, in the year nineteen hundred and eleven, at Chicago aforesaid, in the division and district aforesaid, unlawfully did conspire, combine, confederate and agree together and with one Earl Corder, otherwise known as James Earl Corder, to commit an offense against the said United States, that is to say, the said defendants then and there unlawfully did conspire, combine, confederate and agree together and with the said Earl Corder, otherwise known as James Earl Corder, to unlawfully and feloniously transport, and cause to be transported in interstate commerce, from Milwaukee in the state of Wisconsin to Chicago in the state of Illinois, and into and through the said eastern division of the said northern district of Illinois, of certain women and certain girls, to wit, Flossie Dion and Frances Van-cel, for the purpose of prostitution.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that in pursuance of the said unlawful conspiracy combination, confederation and agreement and to effect the object to the same, the said defendants, on, to wit, the fifteenth day of May in the year nineteen hundred and eleven, at Chicago aforesaid, did furnish, deliver and give to the said Earl Corder, otherwise known as James Earl Corder, a sum of money, to wit, the sum of eleven dollars, good and lawful money of the said United States,

with which to pay for the transportation of the Flossie Dion and the said Frances Van-cel and each of them, in interstate commerce from Milwaukee aforesaid to Chicago aforesaid.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, the said defendants on, to wit, the fifteenth day of May, in the year nineteen hundred and eleven, at Chicago aforesaid, did urge, incite and solicit the said Earl Corder, otherwise known as James Earl Corder, to transport and cause to be transported in interstate commerce, from Milwaukee aforesaid to Chicago aforesaid, the said Flossie Dion and the said Frances Van-cel.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the
16 object of the same, the said defendants, on, to wit, the fifteenth day of May, in the year nineteen hundred and eleven, at Chicago aforesaid, did instruct and request the said Earl Corder, otherwise known as James Earl Corder, to proceed to Milwaukee aforesaid for the purpose of inducing and influencing the said Flossie Dion and the said Frances Van-cel to allow themselves to be transported in interstate commerce from Milwaukee aforesaid to Chicago aforesaid; against the peace and dignity of the said United States and contrary to the form of the statute of the same in such case made and provided.

JAMES H. WILKERSON,
United States Attorney.

Endorsed: No. 4798. United States District Court, Northern District of Illinois, Eastern Division. The United States of America vs. Zoe Wilson, alias Zoe Willard and Charles Wilson, alias Charles Willard. Indictment Violation Section 2, White Slave Traffic Act. A True Bill, John Edgecomb, Foreman. Filed In open Court, this 23rd day of November, A. D. 1911. T. C. MacMillan, Clerk.

17 And afterwards, to wit, on the 25th day of November A. D. 1911, the following order was had and entered of record in said cause, to wit:

18 4798.

THE UNITED STATES
vs.
ZOE WILSON, CHARLES WILSON.

Come the parties by their attorneys and on motion of the defendants by their attorneys leave is given said defendants to file their demurrer to the indictment herein by November 29, 1911 at ten o'clock a. m. and it is further ordered that this cause be set for trial on December 11, 1911.

19 And afterwards, to wit, on the 29th day of November, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause, a Demurrer; said Demurrer being in the words and figures following, to wit:

20 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

UNITED STATES OF AMERICA
vs.
CHARLES WILLARD and ZOE WILLARD.

And the defendants and each of them, by S. N. Hoover, E. N. Zoline and Adolph Marks, their attorneys, come and defend, etc., when, etc., and say that the indictment and each and every count thereof, and the matters and things therein contained in the manner and form as the same are set forth, are not sufficient in law to be answered thereto, and that the defendants and each of them are not bound by law to answer the indictment and each and every count thereof, and this the defendants and each of them are ready to verify.

Wherefore, for the insufficiency of the said indictment and each and every count thereof in this behalf, the defendants and each of them pray judgment for that the United States of America may be barred from maintaining the said indictment and each and every count thereof.

And the said defendants and each of them show to the court the following causes of demurrer:

21 1. The indictment and each and every count thereof are uncertain, insufficient, indefinite and informal and the acts therein attempted to be charged against the defendants and each of them do not constitute an offense against the United States.

2. The indictment and each and every count thereof are insufficient because the acts therein attempted to be charged are not charged by direct averment but by way of recital.

3. The indictment and each and every count thereof are insufficient in that they are repugnant, uncertain, ambiguous and are bad for duplicity.

4. The indictment and each and every count thereof are insufficient in that they do not allege specifically acts in violation of any law of the United States.

5. The indictment and each and every count thereof are insufficient in that they contain conclusions of the pleader.

6. The indictment and each and every count thereof are bad because they show on the face of it that the acts and facts therein set forth are barred by the statute of limitations.

7. The indictment and each and every count thereof are bad because it shows in the face thereof that the acts and facts therein set forth were not *an* offenses at the time charged therein.

8. The ninth and tenth counts of said indictment are bad because

they fail to set out any means whereby they conspired to commit any offense against the United States.

9. The indictment is bad because it fails to show jurisdic-
22 tion in the District Court of the United States for the Northern District of Illinois.

10. The ninth and tenth counts of said indictment are bad because they fail to show that one or more of the defendants did anything to effect the object of conspiracy.

11. The ninth and tenth counts of said indictment are bad because they fail to show that the defendants conspired to commit any offense against the United States and that one or more of the defendants did any act to effect the object of conspiracy.

12. The indictment and each and every count thereof are bad for the reason that this court and the United States has no jurisdiction.

13. The indictment and each and every count thereof are bad for the reason that the Act of Congress approved June 25th, 1910, entitled "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls and for other purposes" is unconstitutional and void.

14. The indictment and each and every count thereof are bad for the reason that the Act of Congress approved June 25th, 1910, imposes a cruel and unusual punishment for the offense and the punishment is not proportionate to the offense.

15. The indictment and each and every count thereof are bad for the reason that the said act of Congress is not constitutionally within the jurisdiction of the United States, and the matters and things therein referred to are judicially cognizable by the state tribunals, and legislation thereon is among the constitutionally reserved rights of the several states, because the power to legislate vice, health
23 and morality is within the exclusive police powers reserved to the states.

16. The indictment and each and every count thereof are bad for the reason that the said act is in violation of the tenth amendment to the constitution of the United States, which is as follows: "The powers not delegated to the United States by the constitution nor prohibited by it to the states, are reserved to the states respectively or to the people".

17. The indictment and each and every count thereof are bad for the reason that the said act is in violation of a portion of the fifth amendment to the constitution of the United States which is as follows: "No person shall be deprived of life, liberty or property without due process of law."

18. The indictment and each and every count thereof are bad for the reason that the said act is unconstitutional and void because the power to enact the said law is not within the powers granted by the Constitution of the United States, and therefore, Congress had no power and has no power under the constitution of the United States to enact the said law.

19. The indictment and each and every count thereof are bad for the reason that the power granted by the constitution of the United

States to Congress to "regulate commerce" is a delegated power and includes only the right to pass upon the morality of any passenger offered by a common carrier engaged in interstate commerce.

24 20. The indictment and each and every count thereof are bad for the reason that the right to regulate commerce is confined to the regulation of traffic itself and such matters as are necessarily incident to it, and cannot follow the moral status of a person traveling from state to state, because their moral acts fall exclusively within the police power of the respective states.

21. The indictment and each and every count thereof are bad for the reason that the said act is in violation of the provisions of the constitution that the citizens of each state shall be entitled to all privileges of citizens in the several states.

22. The indictment and each and every count thereof are bad for the reason that there is no constitutional authority vested in Congress to discriminate as to the moral character of persons offered as passengers in interstate commerce.

23. The indictment and each and every count thereof are bad for the reason that there is no averment that the tickets alleged to have been purchased were ever used or offered to be used in interstate commerce and therefore never came within the jurisdiction of Federal law relating to interstate commerce.

24. The indictment and each and every count thereof are bad for the reason that there is no averment that any passenger was offered for transportation in interstate commerce for the purpose of prostitution or any immoral purpose.

25 25. The indictment and each and every count thereof are bad for the reason that the mere fact of purchasing a ticket for transportation in interstate commerce does not violate any law over which Congress has authority to legislate.

26. The indictment and each and every count are bad for want of sufficient averment that the Chicago & Milwaukee Electric Railway Company and the Northwestern Elevated Railway Company or both or either of them are engaged in interstate commerce.

27. The indictment and each and every count are bad for the reason that it attempts to make acts a crime which were not a crime at the time they were committed.

28. The indictment and each and every count are bad because the act upon which it is based is ex post facto.

29. The indictment and each and every count thereof are bad because it fails to set forth facts which are indictable for the reason that the act upon which the indictment is based is highly penal and no reasonable time is allowed for the promulgation of the act or to allow the defendants to know of its existence.

30. The indictment and each and every count are bad for want of an averment that the said ticket mentioned therein was to be used by any woman or girl in interstate commerce in going to any place for the purpose of prostitution.

31. The first count of the indictment is bad for the reason that the words "did knowingly cause to be transported" are mere conclusions of the pleader and are insufficient to apprise the accused as to the

facts and circumstances relied on by the government to sustain the charges against them.

26 32. The third and fourth counts of the indictment are bad for the reason that the words "did aid in obtaining transportation" are mere conclusions of the pleader and do not charge any indictable acts.

33. The fourth count of the indictment is bad for want of an averment that the said ticket entitled the said Frances Van-Cel to be transported over the lines of a common carrier in interstate commerce.

34. The fifth count of the indictment is bad because the words "did knowingly cause to be transported" are mere conclusions of the pleader and are insufficient to sustain the allegations relied on as indictable.

35. The fifth count of the indictment is bad for want of an averment that said ticket entitled the said Flossie Dion to be transported over the lines of a common carrier in interstate commerce.

36. The indictment and each and every count thereof is bad in that it charges the defendants with two separate and distinct crimes or offenses, in that it charges the defendants with the violation of the Interstate Commerce Act as amended, and also with the crime of conspiracy.

37. The matters and things alleged in the indictment, and in each and every count thereof, do not constitute an offense against the United States.

38. Each and every count of the indictment is insufficient because no offense against the United States is alleged therein with the certainty required by law.

39. The indictment and each and every count thereof is bad for misjoinder.

27 And also that the said indictment and each and every count thereof is in other respects uncertain, informal and insufficient, etc.

S. N. HOOVER,
E. N. ZOLINE, AND
ADOLPH MARKS,
Attorneys for Defendants.

28 Endorsed: No. 4798. District Court of the United States, Northern District of Illinois, Eastern Division. United States of America vs. Charles Willard and Zoe Willard. Demurrer. Filed Nov. 29, 1911, at 10 o'clock A. M. T. C. MacMillan, Clerk.

29 And afterwards, to wit, on the 29th day of November A. D. 1911, the following order was had and entered of record in said cause, to wit:

30 No. 29—Landis.

4798.

THE UNITED STATES
vs.
ZOE WILSON and CHARLES WILSON.

This cause coming on to be heard on the demurrer of the defendants to the indictment filed herein against them come the parties by their attorneys and after having heard the arguments of counsel the court being fully advised in the premises, it is ordered that said demurrer be and the same hereby is overruled, to which order of the court said defendant- by their attorneys duly except and the defendants are given until December 4, 1911, to plead.

31 And afterwards, to wit, on the 4th day of December, A. D. 1911, the following order was had and entered of record in said cause, to wit:

32 Dec. 4—Landis, J.

4798.

THE UNITED STATES
vs.
ZOE WILSON and CHARLES WILSON.

Comes the United States by James H. Wilkerson, Esq., United States attorney, come also the defendants Zoe Wilson and Charles Wilson in their own proper person and said defendant- being arraigned upon the indictment filed herein against them each pleads not guilty thereto.

33 And afterwards, to wit, on the 11th day of December, A. D. 1911, the following order was had and entered of record in said cause, to wit:

34 Mon., Dec. 11—Landis, J.

4798.

THE UNITED STATES
vs.
ZOE WILSON, CHARLES WILSON.

Come the parties by their attorneys and on motion it is ordered by the court that the trial of this cause be set for Tuesday December 12, A. D. 1911.

35 And afterwards, to wit, on the 12th day of December A. D. 1911, the following order was had and entered of record in said cause, to wit:

36 Dec. 12—L., J.

4798.

THE UNITED STATES
vs.
ZOE WILSON, CHARLES WILSON.

Come the parties by their attorneys and the defendants in their own proper person-, and the said defendants having heretofore interposed a plea of not guilty to the indictment filed herein against *him*, and this cause now coming on for trial, for their defense puts themselves upon the country, whereupon comes a jury of good and lawful men, towit: L. R. Hudson, Charles Humphrey, H. G. Bresler, Mendel Harris, F. M. Richardson, Chas. Rogers, Peter F. Quinn, W. H. McKay, Thos. Frew, Jas. Gentleman, Bert Norris. Edward V. Yockey, who are duly elected, empaneled and sworn herein a true verdict to render according to the law and the evidence, and the usual hour of adjournment having arrived, it is ordered by the court that the further trial of this cause be and it hereby is continued until tomorrow morning at ten o'clock.

37 And afterwards, to wit, on the 13th December A. D. 1911, the following order was had and entered of record in said cause, to wit:

38 Dec. 13—Landis, J.

4798.

THE UNITED STATES
vs.
ZOE WILSON, CHARLES WILSON.

This being the day and hour to which the further trial of this cause was on yesterday continued, come again the parties by their attorneys and the defendants in their own proper persons, come also the jury who were duly elected, empaneled and sworn herein as aforesaid, and the trial of this cause proceeds and during the examination of witnesses the usual hour of adjournment having arrived, it is ordered by the court that the further trial of this cause be and it hereby is continued until tomorrow morning at ten o'clock.

39 And afterwards, to wit, on the 14th day of December A. D. 1911, the following order was had and entered of record in said cause, to wit:

40 4798.

THE UNITED STATES
vs.
ZOE WILSON and CHARLES WILSON.

This being the day and hour to which the further trial of this cause was on yesterday continued, come again the parties by their attorneys and the defendants in their own proper persons come also the jury who were duly elected, empaneled and sworn herein as aforesaid, and the trial of this cause proceeds, and the jury having heard the evidence by the parties adduced, arguments of counsel and charge of the court retire to their room to consider of their verdict and the usual hour of adjournment having arrived it is ordered by the court that the further trial of this cause is continued until tomorrow morning at ten o'clock and by agreement of parties that the said jury may return a sealed verdict.

41 And afterwards, to wit, on the 15th day of December, A. D. 1911, the following order was had and entered of record in said cause, to wit:

42 4798.

THE UNITED STATES
vs.
ZOE WILSON and CHARLES WILSON.

This being the day and hour to which the further trial of this cause was on yesterday continued, come again the parties by their attorneys and the defendants in their own proper persons, come also the jury who were duly elected, empaneled and sworn herein as aforesaid and render their verdict and upon their oath do say: "We the jury find the defendants Zoe Wilson alias Zoe Willard and Charles Wilson, alias Charles Willard, guilty as charged in the indictment" whereupon the said defendants by their attorneys enter their motion for a new trial herein and the hearing of said motion is continued until December 16, 1911, at ten o'clock a. m.

43 And afterwards, to wit, on the 16th day of December A. D. 1911, the following order was had and entered of record in said cause, to wit:

44 Dec. 16—L., J.

4798.

THE UNITED STATES
vs.
ZOE WILSON, alias ZOE WILLARD.

Come the parties by their attorneys and the defendant Zoe Wilson alias Zoe Willard in her own proper person to have the sentence and

judgment of the court pronounced upon her, she having heretofore towit, on the 15th day of December, A. D. 1911, one of the days of this term of this court having been adjudged guilty by a jury in due form of law as charged in the indictment filed herein against her, and the defendant being asked by the court if she has anything to say why the sentence and judgment of the court should not now be pronounced upon her and showing no good and sufficient reasons why sentence and judgment should not be pronounced, is is therefore considered and ordered by the court and is the sentence and judgment of the court upon the verdict of guilty so rendered herein by the jury as aforesaid, that the defendant Zoe Wilson alias Zoe Willard be confined and imprisoned in the Kansas State Prison at Lansing, Kansas for and during a period of three years and that she forfeit and pay to the United States a fine in the sum of five hundred dollars for which let execution issue. It is further ordered by the court that the sentence in this cause begin to run at noon today, Saturday, December 16, A. D. 1911; to which sentence and judgment of the court the said defendant by her attorneys duly excepts, and is given thirty days within which to file her bill of exceptions.

45 And afterwards, to wit, on the 16th day of December A. D. 1911, the following order was had and entered of record in said cause, to wit:

46 Dec. 16, 1911—Landis, J.

4798.

THE UNITED STATES
vs.
CHARLES WILSON, alias CHARLES WILLARD.

Come the parties by their attorneys and the defendant Charles Wilson alias Charles Willard in his own proper person to have the sentence and judgment of the court pronounced upon him, he having heretofore towit, on the 15th day of December, A. D. 1911, one of the days of this term of this court having been adjudged guilty by a jury in due form of law as charged in the indictment filed herein against him, and the defendant being asked by the court if he has anything to say why the sentence and judgment of the court should not now be pronounced upon him and showing no good and sufficient reasons why sentence and judgment should not be pronounced. it is therefore considered and ordered by the court and is the sentence and judgment of the court upon the verdict of guilty so rendered herein by the jury as aforesaid, that the defendant Charles Wilson alias Charles Willard be confined and imprisoned in the United States Penitentiary at Leavenworth, Kansas for and during a period of three years and that he forfeit and pay to the United States a fine in the sum of five hundred dollars for which let execution issue. It is further ordered by the court that the sentence in this cause begin to run at noon today, Saturday, December 16, A. D.

1911; to which sentence and judgment of the court the said defendant by his attorneys duly excepts, and is given thirty days within which to file his bill of exceptions.

47 And afterwards, to wit, on the 16th day of December, A. D. 1911, the following order was had and entered of record in said cause, to wit:

48 4798.

THE UNITED STATES
vs.
ZOE WILSON and CHARLES WILSON.

This cause coming on to be heard on motions of the defendants herein for a new trial, come the parties by their attorneys and the court having heard the arguments of counsel and being fully advised in the premises overrules and denies said motions, to which order of the court the said defendants by their attorneys duly except and thereupon the said defendants by their attorneys enter their motions in arrest of the judgment herein and this cause coming on to be heard on said motions in arrest, come the parties by their respective attorneys and the court having heard the arguments of counsel and being fully advised in the premises, overrules and denies said motions in arrest, to which ruling and order of the court the said defendants by their attorneys duly except.

49 And afterwards, to wit, on the 26th day of December, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause, an Assignment of Errors; same being in the words and figures following, to wit:

50 UNITED STATES OF AMERICA,
Northern District of Illinois, Eastern Division, ss:

UNITED STATES
vs.
CATHERINE WILSON, alias ZOE WILLARD.

Assignments of Errors Accompanying Petition for Writ of Error.

And now comes the defendant, Catherine Wilson, alias Zoe Willard, praying that a writ of error may issue herein in accordance with the petition filed herein, and said petitioner avers that in the judgment and proceedings of the District Court of the United States for the Northern District of Illinois, there is manifest error in the proceedings herein, to-wit:

1. The matters and things alleged in the indictment, and in each and every count thereof, do not constitute an offense against the United States.

2. Each and every count of the indictment is insufficient because

no offense against the United States is alleged therein with the certainty required by law.

3. Each and every count of the indictment is insufficient for uncertainty and ambiguity.

4. Because the matters and things in the said indictment set forth and charged do not constitute offenses cognizable in the District Court, and do not come within its power and jurisdiction.

51 5. Because the offenses created by the act of Congress, entitled "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes," approved by the President June 25th, 1910, and upon which the aforesaid counts are based, are not constitutionally within the jurisdiction of the courts of the United States, and because the matters and things therein referred to are judicially cognizable by State tribunals only, and legislative action thereon is among the constitutionally reserved rights of the several States, and said act of Congress contravenes the Tenth Amendment to the Constitution of the United States.

6. Because the said Act, in so far as it creates offenses and imposes penalties, is in violation of the Constitution of the United States, and an infringement of the rights of the several States and the people.

7. The court erred in overruling the demurrer of the defendant to the indictment.

8. The court erred in overruling the motion for new trial.

9. The court erred in overruling the motion in arrest of judgment.

10. The court erred in entering judgment on the verdict in sentencing *their* petitioner.

52 11. The court erred in permitting the following cross examination of the defendant Zoe Willard by Mr. Harry Parkins, assistant U. S. District Attorney, for the Government, viz:

Q. How long have you been sporting?
A About nine years all told.
Q. You began in 1893, didn't you?
A Yes.
Q. What was the first place that you hung out in?
A. I went to a woman's by the name of, the first house I was ever in, was a Miss Belle Demings at 2016 Dearborn street.
Q. And then where did you go?
A. Why, from that house I went to 2015 Armour Avenue.
Q. You were a prostitute all of that time?
A. Yes sir.
Q. You have never done any other business since 1893?
A. Why, yes.
Q. What?
A. I was not in any other business no, but I was not in the business *no, but I was not in the business* all of that time since 1893.
Q. You were either sporting, yourself, or in a sporting house since 1893?
A. Yes.

Q. Mr. ZOLINE: You mean since 1903?
Mr. PARKINS: No I don't.
Q You are thirty-three years old, are you not?
A. Yes, about 33 or 34 years old.
Q. By the way, will you let me take your syringe that you have got there?
A. Pardon me?
53 Q. You know what I mean.

Mr. ZOLINE: I object to that.

Mr. PARKINS:

Q. You have got it with you?
A. What has that got to do with this case?

Mr. PARKINS:

Q. Have you got it with you?
The COURT: What is it?
A. I didn't get it?
Mr. PARKINS: Why it is something that she uses every few minutes to stimulate herself with, opium or morphine, and I want to know if she has got it with her.
The COURT: Proceed to something else.
Mr. ZOLINE: I take an exception to the remarks of counsel

Mr. PARKINS:

Q. How many times have you been married?
A. Twice.
Q. What was the doctor's name whom you married first?
A. Dr. Potter.
Q. How long did you live with him before you married him?
A. About eleven months.
Q. What became of him?
A. He is in New York City.
Q. Is he living?
A. I believe so.
Q. Now, you never had any trouble with Wilson, did you, since you were married to him?
A. What kind of trouble do you mean?

Mr. ZOLINE: That is objected to: she is not on trial for that.
54 The COURT: I don't know.
To which ruling of the court the defendants and each of them then and there duly excepted.

Mr. PARKINS:

Q. Did you ever have any time when you had any difficulties with him?
A. Why, we have had little quarrels like every married couple have.
Q. As a matter of fact in April or May of this year, he was not living with you, was he?

A. April or May of this year?
Q. Yes?
A. Why, yes.
Q. At the time that Mr. Corder met you as he testified at the Union Depot, Mr. Wilson was not residing with you, was he?
A. He was at Fox Lake at the time.
Q. He was not residing with you as your husband was he?
A. I don't know what you mean Mr. Parkins.
Q. Well, was there a time at or about April or May of this year when Mr. Wilson left you?
A. No sir.
Q. When you had some family differences and he was no where you could locate him, find him?
A. No sir.
Q. You had no difficulty with him at all?
A. Why not to my knowledge.
55 Q. Just look at that letter will you please, and see if that refreshes your recollection?
A. Perhaps it will.
Q. Just a minute: you received that letter, did you?
A. Yes sir.
Q. Now just look at it and see if it refreshes your recollection?
A. Yes, sir, I received this letter.
Q. Does it refresh your recollection about the difficulty with your husband?
A. Why, I don't remember of any great difficulty with my husband any more than having a little quarrel.
Q. Oh, you did have a quarrel with him?
A. I said no more than any married couple do.
Q. You did have a quarrel?
A. I don't remember of any.
Q. Do you say you did not have a quarrel?
A. I say I don't remember of having a quarrel: we had several, lots of quarrels, but I don't remember of the quarrel that you have reference to.

Mr. PARKINS: I offer this letter in evidence as Government's Exhibit 4.
Mr. ZOLINE: Let us see it before it is offered. (Examining letter.) That is objected to; it has absolutely no bearing on the case on trial; it is some letter written by an outsider to this woman.

56 The COURT:
Q. Have you any recollection of having written a letter to the writer of this letter?
A. Why, no, I didn't.
Q. Do you remember of this letter coming to you?
A. Yes.
Q. Was there anything in this letter that astonished you when you read it?
A. No sir.

The COURT: The objection is overruled.

To which ruling of the court, the defendants and each of them then and there duly excepted.

Mr. PARKINS: I want to read this letter.

"NEW YORK CITY, 5/19/1911.

"MY DEAR MRS. WILLARD: Yours received this A. M. I am so "glad you have patched up your little differences with your sweet- "heart for now I know you are yourself again. Yes, I took two "pistols with me where you lost your luck piece. Perhaps you mis- "placed it. Note what you say of Lilly."

The COURT: Any other reference in there?

Mr. PARKINS: That is all I care for. Signed "Sincerely yours. Mildred." Postmarked Madison Square, New York, May 19, 8 P. M. 1911, and addressed to Miss Zoe Willard, 2034 Dearborn Street. Chicago, Illinois."

57 Q. So you did have a quarrel and patched it up, didn't you?

A. I must have had.

Q. Isn't it a fact that you did?

A. I presume I did.

Q. Will you say that you did?

A. I will say I did.

Mr. ZOLINE: I object to that.

The WITNESS: I admit that I had lots of quarrels with him.

Mr. PARKINS:

Q. And that was the time, was it when you were out looking for Willard?

A. No sir.

Q. That was the time that you got Corder to go to the Union Depot with you to look for Willard and chase around the restaurants and saloons in that vicinity looking for him, wasn't it?

A. No, sir.

Q. Are you addicted to the use of any drugs, morphine, opium or any drug of that kind?

Mr. ZOLINE: That is objected to as incompetent, irrelevant and immaterial.

The COURT: Overruled.

To which ruling of the Court the defendants and each of them then and there duly excepted.

A. I am.

Mr. PARKINS:

Q. What one?

A. Morphine.

Q. When last did you use it?

A. Before I came into the Court room.
58 Q. This morning?
A. Yes sir.
Q. At what time?
A. Ten O'clock.
Q. How often do you use morphine?

Mr. ZOLINE: That is objected to as incompetent irrelevant and immaterial.
The COURT: Overruled. Answer the question.
To which ruling of the court the defendants by their counsel then and there duly excepted.

A. Why about two or three times a day.

Mr. PARKINS:

Q. Two or three times every day?
A. Yes.
Q. Have you got your implements with you now everything to take the dose?

Mr. ZOLINE: I object as oncompetent, irrelevant and immaterial.
The COURT: Overruled.
To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

A. I have.

Mr. PARKINS:

Q. Just let me look at them?

Mr. TYRRELL: It seems to me that this is very objectionable.
The COURT: If you object to this I sustain the objection.
59 Mr. TYRRELL: Well, I do object to it.
The COURT: Well, the objection is sustained.
Mr. PARKINS: Very well your honor.

The WITNESS: What is the use of that: I admitted it and what was the use of doing that?
Mr. PARKINS: Beg pardon?
A. I don't see what was the use of that: I admitted it to you.
Q. You admit it do you?
A. I certainly do.
Q. Now, you remember do you not of having conversation in this building the night of your arrest with Mr. Dewoody, Mr. Dannenberger and myself?
A. I do.
Q. You then knew, did you not, as much about the facts of this case as you now know?
A. Why, certainly.
Q. Certainly is your answer, is it?
A. Yes.
Q. And you then spoke to us gentlemen, did you not?
A. Well, I was so confused that evening, the arrest was such a

shock and everything, I don't recall what I did say, and I was not under oath.

Q. Well, you didn't tell any untruths at that conference did you?

A. I can't recall what I did say.

A. Can you answer my question as to whether or not you told any untruths on that occasion?

Mr. ZOLINE: That is objected to: she has answered she does not remember what she said.

60 12. The court erred in permitting the following cross examination of the defendant, by Mr. Parkin, for the Government, to detriment of your petitioner, Catherine Wilson:

Q. I see an item here April 5th, O'Feefe and McDermott, $5.00; what is that?

A. That implies that O'Keefe and McDermott were credited in that book with reference to ball tickets, the policemen operator's ball.

Q. And on March 31, the word Bookers' $5.00: What is that?

A. Bookers, $5.00 on March 31?

Q. Yes?

A. I would have to say that was applied to the same thing. As policeman's ball lot, and there is reasons given for this, being there, with reference to that ball.

Q. March 31, Bookers $5.00 you now state was money which you paid to the bookers in exchange for tickets for the policemen's ball?

A. No, sir, I did not say that.

Q. What did you say?

A. The reason that entry is made there——

Q. Now, that is not my question.

A. All right.

Q. For what was the five dollars paid on the 31st to the bookers, and the five dollars to O'Keefe and McDermott on April 5th, paid for?

Mr. ZOLINE: That is objected to as incompetent irrelevant and immaterial.

The WITNESS: I never said it was paid.

61 The COURT: Over-ruled. Answer the question.

To which ruling of the court the defendant and each of them then and there duly excepted.

A. What was it paid for?

Mr. PARKINS: Yes?

A. Nothing.

Q. What was it given for; what does it represent?

A. It represents a future purchase, a notation or record of a future purchase of tickets for the policemen operators ball.

Q. Money of the amount there specified was paid to those gentlemen on those dates?

A. No sir.

Q. Was it paid at any time?

A. No sir, not to my knowledge.

Q. Why was the entry made in the book?

A. Because the people in the neighborhood, chauffeurs and people of that calibre, cab drivers etc. bothered my wife to such an extent regarding balls and parties and things, ball tickets especially, that she wanted to know a way out of it, and I told her to make an entry in the book of all people that she desired to patronize in case they came in from time to time, to make the entries as it shows there.

Q. That was the reason?

A. That was the reason.

Q. Cooley, April 7th: was he a police officer?

A. There was a police officer named Cooley;

62 Q. He was out there at that time on duty?

A. I could not say he was there; he was in the district.

Q. You think now he was there on that date?

A. I have no doubt he was there at that time.

Q. $10.00: what was that paid for?

A. I would have to see that first. I would have to say that that was included with the other entries.

Q. Was the money paid to Cooley for that?

A. No sir.

Q. On April 17th, Bartell?

A. It must be Bartell.

Q. Bartell: the writing is indistinct.

A. There is a policeman in there by the name of Bartell.

Q. "200.00: what was that paid for?

A. It was another such entry.

Q. Was the money paid to Officer Bartell?

A. Never to my knowledge.

Q. Was it paid to Bartell?

A. I should say no.

Q. Now, on March 14th, Cooley, $5.00: what was that item for?

A. There was one time that Cooley stopped a disturbance there by a drunken man and there was a case of going to court, in the morning to settle the thing, and Cooley had been up all night and had got his clothes torn or something in the fracas, and I personally offered Cooley $5.00 and he refused to take it, and he didn't take it.

Q. Why did you make those entries?

63 A. Because I made an entry if he didn't take it, I was going to credit another five dollars worth of those tickets to him.

Q. Did you credit the tickets? A. Did you contribute towards tickets?

A. Sir?

Q. Did you contribute towards the tickets?

A. No sir, there was none of those people with possibly one exception that came around with the tickets.

Q. Who was that?

A. I don't know.

Q. Was it the one I have mentioned, Officer Cooley who were the bookers at that time?

A. Who were the bookers?

Q. Yes?
A. I could not tell you that.
Q. Were they Barnard and Walsh?
A. I never had dealings with those people, I don't know who they were.
Q. Did officers Brennan or O'Keefe ever come around with tickets?
A. Not to my knowledge.
Q. Did officer Cooley?
A. I could not state which one of those officers ever came around with any tickets.
Q. Now who is Little Jack?
A. Little Jack?
Q. Yes?
A. I don't know the name—I don't know of anybody by the name of Little Jack. It must be a chauffe-r or somebody.
64 Q. Is he a police officer?
A. I don't know of any police officer by the name of Little Jack.
Q. Do you know officer O'Connor?
A. I know of an Officer O'Connor.
Q. Where was he stationed?
A. I don't know whether he was in that locality or not: I presume that he was.
Q. Did you pay him any money?
A. No sir, I never paid any officer at any time in my life any money for anything.
Q. This is your book of account?
A. That is a written book of account that was kept there.
Q. Commencing here at Page 199, the entries here on Page 199 were made in the due course of business were they?
A. What is that, items of expenditures expenses?
Q. Yes?
A. I presume as they came along they were put down.
Q. Day after day as you spent money, you made the items in the book?
A. Unless we forget something——
Q. And they are books in which you transacted your business, kept your account?
A. That was the book.
Q. Now, on May 3, there appears this writing: Police O'Connor $5.00 Reddy Cohen $5.00: police Lantry, 12 o'clock man, $2.50. What are those items?
A. I don't know what they are.
Q. Do you care to look at the book?
A. Yes, sir; I don't know anything about it.
65 Mr. ZOLINE: It is all objected to as having no relation to the charge at bar.

Mr. PARKINS:

Q. Do you care to look at the book?
A. Yes, sir.

Q. What is your answer to the question?
A. I don't care anything about it.

Mr. ZOLINE: I would like a ruling to the objection, if the court please.
The COURT: On what theory is this admissable?
Mr. PARKINS: It will be developed. If counsel has any objection, I will meet it.
The COURT: Have you any reasons why you don't care to disclose your theory?
Mr. PARKINS: Your honor, it goes to the credibility first and foremost, the nature and kind of house second, and intent third.
Mr. TYRRELL: There has never been any discussion here about the nature of the house, if the Court please.
Mr. PARKINS: There has never been any admission of it either.

The COURT:

Q. Are any of those entries yours?
A. Yes sir.
The COURT: Well, go ahead.

To which ruling of the court the defendants and each of them duly excepted.

66 13. The Court erred in its charge to the jury and in refusing to charge the jury in the manner requested by your petitioner, said charge and said refused charges being set forth in Assignment of Error #12, in the case of your petitioner, so-defendant herein, Charles Wilson, and by reference made a part hereof.

Wherefore, your petitioner prays that by reason of the foregoing errors, the judgment of the said District Court of the United States for the Northern District of Illinois, Eastern Division, may be reversed and your petitioner be discharged from custody.

ELIJAH N. ZOLINE,
Attorney for Petitioner.

Endorsed: Gen. No. 4798. In the U. S. District Court, of Cook County. United States vs. Catherine Wilson. Assignments of Error Filed Dec. 26, 1911, at — o'clock — M. T. C. MacMillan, Clerk.

67 And afterwards, to wit, on the 26th day of December, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause an Assignment of Errors; same being in the words and figures following, to wit:

68 UNITED STATES OF AMERICA,
Northern District of Illinois,
Eastern Division, ss:

UNITED STATES
vs.
CHARLES WILSON, alias CHARLES WILLARD.

Assignments of Errors Accompanying Petition for Writ of Error.

And now comes the defendant, Charles Wilson, alias Charles Wilson, praying that a writ of error may issue herein in accordance with the petition filed herein, and said petitioner avers that in the judgment and proceedings of the District Court of the United States for the Northern District of Illinois, there is manifest error in the proceedings herein, to-wit:

1. The matters and things alleged in the indictment, and in each and every count thereof, do not constitute an offense against the United States.

2. Each and every count of the indictment is insufficient because no offense against the United States is alleged therein with the certainty required by law.

3. Each and every count of the indictment is insufficient for uncertainty and ambiguity.

4. Because the matters and things in the said indictment set forth and charged do not constitute offenses cognizable in the District Court, and do not come within its power and jurisdiction.

69 5. Because the offenses created by the act of Congress, entitled "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes," approved by the President June 25th, 1910, and upon which the aforesaid counts are based, are not constitutionally within the jurisdiction of the courts of the United States, and because the matters and things therein referred to are judicially cognizable by State tribunals only, and legislative action thereon is among the constitutionally reserved rights of the several States, and said act of Congress contravenes the Tenth Amendment to the Constitution of the United States.

6. Because the said Act, in so far as it creates offenses and imposes penalties, is in violation of the Constitution of the United States and an infringement of the rights of the several States and the people.

7. The court erred in overruling the demurrer of the defendant to the indictment.

8. The court erred in overruling the motion for new trial.

9. The court erred in overruling the motion in arrest of judgment

10. The court erred in entering judgment on the verdict in sentencing their petitioner.

70 11. The Court erred in permitting the following cross examination of the defendant, Charles Wilson, by Mr. Parkin for the Government:

"Q. I see an item here April 5th, O'Keefe and McDermott, $5.00; what is that?

A. That implies that book with reference to ball tickets, the policemen operator's ball.

Q. And on March 31, the word Bookers' $5.00: what is that?

A. Bookers, $5.00 on March 31?

Q. Yes?

A. I would have to say that was applied to the same thing. As policeman's ball lot, and there is reasons given for this, being there, with reference to that ball.

Q. March 31, Bookers, $5.00 you now state was money which you paid to the bookets in exchange for tickets for the policemen's ball?

A. No sir, I did not say that.

Q. What did you say?

A. The reason that entry is made there——

Q. No, that is not my question.

A. All right.

Q. For what was the five dollars paid on the 31st to the bookers, and the five dollars to O'Keefe and McDermott on April 5th, paid for?

Mr. ZOLINE: That is objected to as incompetent, irrelevant and immateral.

The WITNESS: I never said it was paid.

71 The COURT: Overruled. Answer the question.

To which ruling of the court the defendants and each of them then and there duly excepted.

A. What was it paid for?

Mr. PARKINS: Yes?

A. Nothing.

Q. What was it given for; what does it represent?

A. It represents a future purchase, a notation or record of a future purchase of tickets for the policemen operators' ball.

Q. Money of the amount there specified was paid to those gentlemen on those dates?

A. No sir.

Q. Was it paid at any time?

A. No sir, not to my knowledge.

Q. Why was the entry made in the book?

A. Because the people in the neighborhood, chauffeurs and people of that calibre, cab drivers etc. bothered my wife to such an extent regarding balls and parties and things, ball tickets especially, that she wanted to know a way out of it, and I told her to make an entry in the book of all people that she desired to patronize in case they came in from time to time, to make entries as it shows there.

Q. That was the reason?

A. That was the reason.

Q. Cooley, April 7th: was he a police officer?

A. There was a police officer named Cooley.

72 Q. He was out there at that time on duty?

A. I could not say he was there; he was in the district

Q. You think now he was there on that date?
A. I have no doubt he was there at that time.
Q. $10.00: what was that paid for?
A. I would have to see that first. I would have to say that that was included with the other entries.
Q. Was the money paid to Cooley for that?
A. No sir.
Q. On April 17th, Bartell?
A. It must be Bartell.
Q. Bartell: the writing is indistinct.
A. There is a policeman in there by the name of Bartell.
Q. $2.00: What was that paid for?
A. It was another such an entry.
Q. Was the money paid to Officer Bartell?
A. Never to my knowledge.
Q. Was it paid to Baret-ll?
A. I should say no.
Q. Now, on March 14th, Cooley, $5.00: what was that item for?
A. There was one time that Cooley stopped a disturbance there by a drunken man and there was a case of going to court in the morning to settle the thing, and Cooley had been up all night and had got his clothes torn or something in the fracas, and I personally offered Cooley $5.00 and he refused to take it, and he didn't take it.
Q. Why did you make those entries?
73 A. Because I made an entry if he didn't take it, I was going to credit another five dollars' worth of those tickets to him.
Q. Did you credit the tickets? A. Did you contribute towards tickets?
A. Sir?
Q. Did you contribute towards the tickets?
A. No sir, there was none of those people with possibly one exception that came around with the tickets.
Q. Who was that?
A. I don't know.
Q. Was it the one I have mentioned, Officer Cooley who were the bookers at that time?
A. Who were the bookers?
Q. Yes?
A. I could not tell you that.
Q. Were they Bernard and Walsh?
A. I never had dealings with those people. I don't know who they were.
Q. Did the officers Brennan or O'Keefe ever come around with tickets?
A. Not to my knowledge.
Q. Did officer Cooley?
A. I could not state which one of those officers ever came around with any tickets.
Q. Now who is Little Jack?
A. Little Jack?
Q. Yes?

A. I don't know the name—I don't know of anybody by the name of Little Jack. It must be a chauffeur or somebody.

74 Q. Is he a police officer?

—. I don't know of any police officer by the name of Little Jack.

Q. Do you know Officer O'Connor?

A. I know of an Officer O'Connor.

Q. Where was he stationed?

A. I don't know whether he was in that locality or not: I presume that he was.

Q. Did you pay him any money?

A. No sir, I never paid any officer at any time in my life any money for anything.

Q. This is your book of account?

A. That is a written book of account that — kept there.

Q. Commencing here at Page 199, the entries here on Page 199 were made in the due course of business were they?

A. What is that, items of expenditures expenses?

Q. Yes?

A. I presume as they came along they were put down.

Q. Day after day as you spent money, you made the items in the book?

A. Unless we forget something.

Q. And they are books in which you transacted your business, kept your account?

A. That was the book.

Q. Now, on May 3 there appears this writing: Police O'Connor $5.00: police Reddy Cohen $5.00; police Lantry, $12.o'Clock man, $2.50. What are those items?

A. I don't know what they are.

Q. Do you care to look at the book?

A. Yes sir; I don't know anything about it.

75 Mr. ZOLINE: It is all objected to as having no relation to the charge at bar.

Mr. PARKINS:

Q. Do you care to look at the book?

A. Yes sir.

Q. What is your answer to the question?

A. I don't know anything about it.

Mr. ZOLINE: I would like a ruling to the objection, if the court please.

The COURT: On what theory is this admissable?

Mr. PARKINS: It will be developed. If counsel has any objection. I will meet it.

The COURT: Have you any reasons why you don't care to disclose your theory?

Mr. PARKINS: Your honor, it goes to the credibility first and foremost, the nature and kind of house second, and intent third.

Mr. TYRRELL: There has never been any discussion here about the nature of the house, if the Court please.

Mr. PARKINS: There has never been any admission of it either.

The COURT:

Q. Are any of those entries yours?
A. Yes sir.

The COURT: Well, go ahead.

To which ruling of the court the defendants and each of them duly excepted.

76 12. The Court erred in giving the following charge to the jury and in refusing to charge the jury, viz:

"Now, this is a criminal case and there are two principles that apply here that you do not meet with in civil cases known as the presumption of innocence and reasonable doubt. Now, by presumption of innocence is meant that the arrest of the defendants, their indictment by a Grand Jury, their arraignment here on the charge in the indictment, count for nothing against them before you; no evidence whatever of their guilt. It means that as they stood here when you were sworn to try this case at the beginning of this hearing they were as innocent of these charges as any man in this jury box. Now, that is what is meant by presumption of innocense, and it is the law that that presumption sontinues to abide with the defendants as a complete protection, unless and until a time comes when a situation is created in consideration of which you can not any longer entertain in their favor the presumption of the innocence of the charges. The presumption given away because inconsistent with the existence of a situation proved by the evidence in this case. Proved how? As the law expresses it, beyond all reasonable doubt. Now, what is meant by that? It does not mean that frame of mind that a man may work himself up into in endeavoring to find a way our for somebody accused of crime; it does not mean a mere captious doubt; it does not mean a frame of mind suggested by something occurring in the trial of the case in the argument of counsel for instance, not based on evidence in the case. It don't mean that at all. Reasonable doubt is that frame of mind
77 which forbids you to say, all the evidence considered here and weighed, "I have an abiding conviction of the defendants' guilt"; or as it has been expressed, I am convinced of the defendants' guilt to a moral certainty. If you can say that you have such conviction then you have no reasonable doubt and your verdict will be guilty. On the contrary, if that is your frame of mind, if you are in the frame of mind where, if it was a matter of importance to you in your own affair away from here you would pause and hesitate before acting, then you — got a reasonable doubt.

* * *

"In determining what weight you will give to the testimony of a witness you consider among other things the character of the witness, what the evidence shows the man or woman is, what the man or woman has been, with a view to solving the question of probability, what would such a person probably do in the matter of veracity.

"It is not necessary, to sustain the charges in this indictment, that it should appear that these two girls, or one of them, or either of them, after reaching the house of the defendants in Chicago carried on her occupation, that to which she was inclined, or has been devoted. That has nothing to do with the case. The charge here is, as I indicated to you at the outset, the bringing of them here, or the causing of them to be brought here for that purpose, and if you believe under the evidence in the case that that was in the minds of the defendants, that money was given to the man Corder to be used for that purpose by the defendants, and was used for that purpose by him, and that he in that way and with
78 the use of that money got these girls and brought them down here over the railroad, the electric railroad, with that end in view, understood by the defendants at the beginning, then the fact that there was an interference either by the police department acting upon instructions from Wisconsin, or an interference by the police department for some reason, by these defendants, at the suggestion of these defendants here, the offense was complete as charged in this indictment; just as complete as if these two girls had stayed in that house for a year and practiced their occupation.

"In considering the case with a view to applying the law to the facts you are not to be controlled by the Court, you are not to be led away by any argument of any counsel not based on evidence. Do not consider anything that has been stricken out here. Do not speculate on what might have been an answer given if one had been allowed by the Court to be given to a question put and not answered because of objection. Pay no attention whatever to anything said by any lawyer not based on evidence, as argument. Disregard, discard all those things, considering the arguments of counsel based on evidence for the purpose of enabling you to understand and find out where the truth is here, which after all, when you get down to it, involves one question: what did the defendants have in their minds and hearts when the money was given to Corder? An answer to that question settles this lawsuit. * * *

"Any suggestions.

79 Mr. ZOLINE: One objection in regard to the definition of the offense, for which a specific instruction was asked by the defendants.

The COURT: That is——

The COURT: That instruction where the Court refuses to charge the jury that the offense is incomplete until prostitution has been practiced by the girl?

Mr. ZOLINE: That is to say it is incomplete if the defendants voluntarily abandon their purpose and refuse to accept the girls for the purpose of prostitution.

The COURT: Overruled: Save your point on that.

To which ruling of the court, the defendants by their respective counsel, then and there duly excepted.

Mr. ZOLINE: And then I should like that the Court should say a little more on the reasonable doubt, as I believe it was limited only to a moral certainty. That is the only sentence I heard about.

The COURT: Yes, save your point.

To which ruling of the court, the defendants, by their respective counsel, then and there duly excepted.

Wherefore, your petitioner prays that by reason of the foregoing errors, the judgment of the said District Court of the United States for the Northern District of Illinois, Eastern Division, may be reversed and that your petitioner, be discharged from custody.

ELIJAH N. ZOLINE,
Attorney for Petitioner.

ADOLPH MARKS,
Of Counsel.

Endorsed: Gen. No. 4789. In the U. S. District Court of Cook County. United States vs. Charles Wilson. Assignments of Error. Filed Dec. 26, 1911 at — o'clock —. M. T. C. MacMillan, Clerk.

80 And afterwards, to wit, on the 26th day of December, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause, a Petition for Writ of Error; same being in the words and figures following, to wit:

81 UNITED STATES OF AMERICA,
Northern District of Illinois, Eastern Division, ss:

UNITED STATES
vs.
CATHERINE WILSON, alias ZOE WILLARD.

Petition for Writ of Error.

To the Honorable Wm. R. Day, Justice of the Supreme Court of the United States:

And now comes the defendant, Catherine Wilson, and respectfully represents that in the record and proceedings in this cause lately pending in this court and in the judgment and sentence herein, manifest errors have intervened to the prejudice of this defendant and petitioner, which said errors are specifically set forth in the assignment of errors herewith filed.

Wherefor-, this petitioner and defendant respectively prays that a writ of error be duly allowed herein from the Supreme Court of the United States to the District Court of the United States for the Northern District of Illinois, and that the record of the proceedings and judgment and sentence aforesaid may be removed from this court into the Supreme Court of the United States to the end that
82 the same may be in and by said Supreme Court inspected, reviewed and considered and each and every of them may be corrected according to law; and that this writ of error may be made a supersedeas, and that the bail of this defendant be fixed in a reasonable amount pending the disposition of said cause in said Supreme Court of the United States.

By ELIJAH N. ZOLINE,
Attorney for said Defendant and Petitioner.

83 Endorsed: No. 4798. In the U. S. District Court of Cook County. U. S. vs. Willard et al. Petition for Writ of Error. Filed December 26, 1911. T. C. MacMillan, Clerk. Elijah N. Zoline, Attorney and Counselor at Law, Chicago, Ill.

84 And afterwards, to wit, on the 26th day of December, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause, a Petition for writ of Error; same being in the words and figures following, to wit:

85 UNITED STATES OF AMERICA,
Northern District of Illinois, Eastern Division, ss:

Petition for Writ of Error.

UNITED STATES
vs.
CHARLES WILSON, alias CHARLES WILLARD.

To the Honorable William R. Day, Justice of the Supreme Court of the United States:

And now comes the defendant, Charles Wilson, and respectfully represents that in the record and proceedings in this cause lately pending in this court and in the judgment and sentence herein, manifest errors have intervened to the prejudice of this defendant and petitioner, which said errors are specifically set forth in the assignment of errors herewith filed.

Wherefor-, this petitioner and defendant respectively prays that a writ of error be duly allowed herein from the Supreme Court of the United States to the District Court of the United States for the Northern District of Illinois, and that the record of the proceedings and judgment and sentence aforesaid may be removed from this court into the Supreme Court of the United States to the end that the same may be in and by said Supreme Court inspected, re-
86 viewed and considered and each and every of them may be corrected according to law; and that this writ of error may be made a supersedeas, and that the bail of this defendant be fixed in a reasonable amount pending the disposition of said cause in said Supreme Court of the United States.

By ELIJAH N. ZOLINE,
Attorney for said Defendant and Petitioner.

87 Endorsed: Gen'l No. 4798. In the U. S. District Court, of Cook County. U. S. vs. Willard, et al. Petition for Writ of Error. Filed Dec. 26, 1911. T. C. MacMillan, Clerk. Elijah N. Zoline, Attorney and Counselor at Law, Chicago, Ill.

88 And afterwards, to wit, on the 26th day of December, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause, an order entered by William R. Day, Justice of the Supreme Court of the United States; same being in the words and figures following, to wit:

UNITED STATES
vs.
CATHERINE WILSON, alias ZOE WILLARD.

Order Allowing Writ of Error.

This day comes the petitioner, Catherine Wilson, alias Zoe Willard, and presents to the court her petition for a writ of error from the Supreme Court of the United States to the District Court of the United States for the Northern District of Illinois, Eastern Division, together with her assignment of errors, and upon consideration of the said petition, it is ordered that the said writ of error be allowed from the Supreme Court of the United States to the District Court of the United States for the Northern District of Illinois, Eastern Division, and that a citation do issue in the usual form.

WILLIAM R. DAY,
Justice of the Supreme Court of the United States.

Endorsed: Gen'l No. 4798. In the U, S. District Court. U. S. vs. Willard, et al., Order allowing Writ of Error. Filed Dec. 26, 1911 at — o'clock — M. T. C. MacMillan, Clerk. Elijah Zoline, Attorney at Law, Chicago, Ill.

89 And afterwards, to wit, on the 26th day of December, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause, an order entered by William R. Day, Justice of the Supreme Court of the United States; same being in the words and figures following, to wit:

UNITED STATES
vs.
CHARLES WILSON, alias CHARLES WILLARD.

Order Allowing Writ of Error.

This day comes the petitioner, Charles Wilson, alias Charles Willard, and presents to the court his petition for a writ of error from the Supreme Court of the United States to the District Court of the United States for the Northern District of Illinois, Eastern Division, together with *her* assignment of errors, and upon consideration of the said petition, it is ordered that the said writ of error be allowed from the Supreme Court of the United States to the District Court of the United States for the Northern District of Illinois, Eastern Division, and that a citation do issue in the usual form.

WILLIAM R. DAY,
Justice of the Supreme Court of the United States.

Endorsed: Gen'l No. 4798. In the U. S. District Court. U. S. vs. Willard, et al. Order allowing Writ of Error. Filed Dec. 26, 1911 at — o'clock — M. T. C. MacMillan, Clerk. Elijah Zoline, Attorney at Law, Chicago, Ill.

90 And afterwards, to wit, on the 28th day of December, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause, an Order by Justice Day, Associate Justice of United States Supreme Court; same being in the words and figures following, to wit:

91 CATHERINE WILSON, alias ZOE WILLARD, Plaintiff in Error,
vs.
UNITED STATES OF AMERICA, Defendant in Error.

Whereas, the undersigned, an Associate Justice of the Supreme Court of the United States, assigned to the Seventh Circuit, allowed a writ of error, and signed a citation in the above-entitled cause on December 23rd, 1911, and, it now appearing that a citation has been served in the case, in pursuance of the power vested in me by law, and Rule Thirty-six of the Supreme Court of the United States, it is now ordered that the writ of error, allowed as above stated, operate as a supersedeas, and the defendant be admitted to bail, upon furnishing a bond in the penal sum of Fifteen Thousand Dollars, conditioned according to law, subject to the approval of the District Judge of the United States District Court for the Northern District of Illinois, in which Court said cause was tried.

WILLIAM R. DAY,
Associate Justice U. S. Supreme Court.

Dated at Canton, Ohio, this 27th day of December, 1911.

92 Endorsed: Gen'l No. 4798. In the District Court of the United States Northern District of Illinois. Catherine Wilson, alias Zoe Willard vs. United States of America. Order by Mr. Justice Day for Supersedeas *abd* and Bail. Filed Dec. 28, 1911 at — o'clock — M. T. C. McMillan, Clerk. Elijah N. Zoline, Adolph Marks, Attorney- and Counselor- at Law, Chicago Ill.

93 And afterwards, to wit, on the 28th day of December, A. D. 1911, there was filed in the Clerk's Office of said Court, in the above entitled cause, an Order by Justice Day, Associate Justice of United States Supreme Court; same being in the words and figures following, to wit:

94 CHARLES WILSON, alias CHARLES WILLARD, Plaintiff in Error,
vs.
UNITED STATES OF AMERICA, Defendant in Error.

Whereas, the undersigned, an Associate Justice of the Supreme Court of the United States, assigned to the Seventh Circuit, allowed a writ of error, and signed a citation in the above-entitled cause on December 23rd, 1911, and, it now appearing that a citation has been served in the case, in pursuance of the power vested in me by law, and Rule Thirty-six of the Supreme Court of the United States, it is now ordered that the writ of error, allowed as above stated, operate as

a supersedeas, and the defendant be admitted to bail, upon furnishing a bond in the penal sum of Fifteen Thousand Dollars, conditioned according to law, subject to the approval of the District Judge of the United States District Court for the Northern District of Illinois, in which Court said cause was tried.

WILLIAM R. DAY,
Associate Justice U. S. Supreme Court.

Dated at Canton, Ohio, this 27th day of December, 1911.

95 Endorsed: Gen'l No. 4798. In the District Court of the United States Northern District of Illinois. Charles Wilson, alias Charles Willard vs. United States of America. Order by Mr. Justice Day for Supersedeas *abd* and Bail. Filed Dec. 28, 1911 at — o'clock — M. T. C. MacMillan, Clerk. Elijah N. Zoline, Adolph Marks, Attorney- and Counselor- at Law, Chicago, Ill.

96 And afterwards, to wit, on the 16th day of January, A. D. 1912, there was filed in the Clerk's Office of said Court, in the above entitled cause, a Bill of Exceptions; same being in words and figures following, to wit:

97 UNITED STATES OF AMERICA,
Northern District of Illinois, Eastern Division, ss:

In the District Court of the United States for the Northern District of Illinois, Eastern Division.

No. 4798.

UNITED STATES OF AMERICA
vs.
CHARLES M. WILSON, alias CHARLES N. WILLARD, and CATHERINE WILSON, alias ZOE WILLARD.

Bill of Exceptions.

Be it further remembered that on, to-wit, the 13th day of December, A. D. 1911, the same being one of the days of the December term, A. D. 1911, of said court, before the Honorable Kenesaw M. Landis, one of the Judges of said Court, and a jury, this cause came on for trial upon the indictment heretofore found herein, and said trial was continued from day to day.

Appearances: Harry A. Parkin and H. W. Freeman, appearing on behalf of the United States.

Elijah N. Zoline, Adolph Marks and John F. Tyrrell, appearing for the defendants.

And thereupon the United States to maintain the issues on its part, introduced the following evidence, the same being all of the evidence introduced by the United States against the defendants.

98 JAMES EARL CORDER called and sworn as a witness testified.

Direct examination by Mr. FREEMAN:

I am 20 years old and reside with my parents at 5531 Carpenter Street. I am acquainted with Mr. and Mrs. Willard or Wilson and I know Frances Bancel and Flossie Dion. I have been acquainted with the Wilsons for about 9 months, 2 months before I was arrested and for the 7 months I was in jail. I met the Wilsons at their house at 2034 Dearborn Street. I have been at that house five or six times. On the main floor of the house there is a front parlor and a middle parlor and the rear room is a ball room; down stairs in front is the dining room and in the rear is the kitchen; in front is the store room, and I guess 2 rooms are upstairs. I have eaten in the dining room twice. The first time there were present Mr. and Mrs. Willard, Frances, Flossie and myself. On the other occasion I am not quite sure whether or not Mr. Wilson was present. I ate there around March, April or May of 1911. When I was there, there were six or eight girls in the house and a couple of gentlemen.

The provisions were kept in the basement in the front; I saw them one night in May, I guess, when I was with Mr. Wilson.

Q. Give that conversation.

A. Mr. Wilson says he buys them so he will always have them in the house. He gets them cheap, wholesale, and has them on hand, and don't have to send out to the grocery store he buys them in a big job lot.

Q. Did he say where he bought them?

A. He said at the Randolph market.

Mr. ZOLINE: I object to this conversation; there is no relevancy, whatever in it; it has nothing whatever to do with this

99 case.

The COURT: Overruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

Mr. FREEMAN:

Q. Do you know where or were there any liquors kept there, beer or other liquors in the house if you know?

Mr. ZOLINE: I object to that.

The COURT: Overruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

—. The liquor was kept up stairs on the first floor near the rear in a little side room. Mr. and Mrs. Willard had access to that place that was so kept.

Q. When beer was ordered, who ordinarily got it?

Mr. TYRRELL: That is objected to.

The COURT: When beer was ordered and went to the house, or out of the supplies in the house?

Mr. FREEMAN: When beer was ordered by customers in the house?

The COURT: The objection is overruled.

To which ruling of the court, the defendants by their counsel then and there duly excepted.

—. Mrs. Willard obtained it if Mr. Willard was busy and Mr. Willard obtained it if Mrs. Willard was busy. I met Frances Bancel last February or January, 1911. The house at 2034 Dear-
100 born Street was a disorderly house, a house of *of* prostitution. I had the first meeting with Frances Bancel about December or January of last year, and from that time until April, I met her frequently. She first went to the Willard house the latter part of April or early part of May, 1911. She asked me to go in there with her and I did. That was one or two o'clock in the morning. She did not stay there that night. She went there the next day alone.

Q. What conversation did you have with Mrs. Willard at the time, with Mrs. Willard or either of the defendants or both of them, at the time that she went there the first time?

Mr. ZOLINE: That is objected to as no part of this indictment, if your honor please.

The COURT: Does it bear on the subject of this indictment?

Mr. FREEMAN: Yes, your honor.

The COURT: Answer the question.

To which ruling of the court the defendants and each of them then and there duly excepted.

—. Mrs. Willard talked to Frances; no conversation in particular. I did not hear much of it. She asked Frances if she came in to board there, and Mrs. Willard was telling her what the rates for board was and all that. She went there the next day and was there about two weeks or so, I guess a week or so, and her father or brother had her arrested and taken out of there, and had her taken to the Harrison Street station. I know about that arrest personally. After that Frances left Chicago and went *ot* Green Bay, Wisconsin. I
101 heard from her in two or three days. About that time I did not have a talk with either Mr. or Mrs. Willard. I heard from her from Appleton, and Milwaukee, Wisconsin. She said she wanted to come down. I talked to the Willards after hearing from her from Milwaukee; that was in April or May. I received a letter from Frances that she was coming back again to Willards' as soon as she could get down there. I don't believe I received any communication from either of the Willards subsequently to telling them the girls were in Milwaukee. I did see Mrs. Willard about these girls subsequent to that. About the 7th, 8th or 9th of May of this year, I called up Mrs. Willard, after being informed that she had phoned me. She wanted me to meet her at the Union depot, and I went; about 6.30. We were looking up Mr. Wilson at the time. Later in the evening, at supper at the Union depot, I told Mrs. Wilson that I had heard nothing definite about Frances Bancel and Florence Dion, only that they were in Milwaukee and could not get down on account of having no fare. Mrs. Wilson said she had a notion to go to Milwaukee and see if the girls were up there. A little later she said she was not feeling very well, and if I didn't have anything to do, for

me to go up and see if they were up there. I said I would. I didn't have any money except change from the money Mrs. Wilson gave to pay bills for drinks when we were looking for Mr. Wilson in the cafés. Mrs. Willard bought the dinner at the depot. The next day or so I went to Milwaukee on the Chicago & Milwaukee Electric; this was the 12th of May, 1911. When I got to Milwaukee, I went
to the hotel Frances said in the letter she was at, but they
102 had just checked out. I was going to take the car back to
Chicago and I met them as I turned the corner around the hotel. While in Milwaukee, I dropped a postal card to the Wilsons; that was all. I met both the girls.

Q. What did you say?

Mr. TYRRELL: That is objected to.

Mr. ZOLINE: It was in the absence of the defendants your honor.

The COURT: Overruled.

To which ruling of the court the defendants and each of them then and there duly excepted.

Mr. FREEMAN:

Q. What talk did you have with Frances or Flossie at that time?

A. That I had been out the night previous, a night or two previous with Mrs. Willard and she asked me to go up there to see if they were up there; that I had received Frances' letter saying that she had arrived in Milwaukee, and was at the St. Charles Hotel, and had no fare to come back to Chicago and they would be back as soon as they got their fare.

Mr. TYRRELL: I now move to strike that out; the defendants were not present, and we are not bound by that declaration. I did not get Mr. Corder where this conversation occurred.

A. At Milwaukee.

The COURT: Overruled.

To which ruling of the court the defendants and each of them then and there duly excepted.

I arrived at Milwaukee on Friday and returned to Chicago on the
following Monday, alone. I went down that night or the next
103 - night to see Mrs. Willard and they were not home. So I
went home. About the 19th of May, I received a letter from Mrs. Willard saying that they were back in town and they wanted to see me. (Witness handed paper.) That is the letter I referred to. After receiving that letter I went down to see Mrs. Willard at 2034 Dearborn Street. I told her the girls were in Milwaukee. She wanted to know if I would take car fare up to them, and I said I would. I told her I received the letter from Mr. Willard. She said she sent it, but signed his name to it so there would not be a woman's name on it.

Mr. FREEMAN: If the court please, we offer this letter now in evidence and we ask that it be marked as Government's Exhibit 1. Are there any objections? And I ask that the envelope be marked Government's Exhibit 2.

Which papers were received in evidence and marked Government Exhibits 1 and 2.

104 After — received that letter I went directly down in regard to going to Milwaukee and taking the fare up.

Mr. FREEMAN (reads): "Earl," I am home and would like to hear from you. Mr. Willard, 2034 Dearborn Street," enclosed in an envelope appearing to be sent from the same address to Mr. Earl Corder. "Please forward" and the second address is 5656 May street.

That is the postal card I wrote to Mrs. Willard from Milwaukee. I mailed it to Mrs. Willard.

(Which papers was marked for identification as Government's Exhibit 3, by reporter.)

Mr. FREEMAN: Now I will offer that postal card in evidence, if the court please.

Mr. PARKINS: Is there any objection to this document?

Mr. ZOLINE: We object to the last document going in evidence on the ground that it is irrelevant matter, and incompetent.

The COURT: Over-ruled.

To which ruling of the court, the defendants and each of them by their counsel then and there duly excepted.

Mr. FREEMAN: This card reads: It is addressed on the face to Mrs. Willard, 2034 South Dearborn Avenue, Chicago, Illinois. Postal mark Milwaukee, Wisconsin, May 13, 6 P. M., 1911. Dear Mrs. Willard: Am in Milwaukee and am with Bess and her friend. Everything is peaches and cream. Will be there the latter part of the week. Will probably stop at Natalie Harrison's for a few days. Earl."

Frances went by the name of Bess when she was in Willard's resort.

105 After receiving a postal card I went to the Willards' and saw Mr. Willard first. Then Mrs. Willard came down and saw me. I told her the girls were in Milwaukee. At this conversation Mr. and Mrs. Willard and myself were present. She asked me if I would take fare up to them and I said "Yes." She gave me $11.00, and asked Mr. Willard if he thought that was enough. He said "Yes." I went up there and told the girls she wanted them down here as soon as possible. They told me to call up on the long distance phone and let her know if they were coming down. I did that at Milwaukee, from a dance hall. I bought my ticket goin*t* to Milwaukee out of the money Mr. and Mrs. Willard gave me. I didn't have a nickel when I went to their house. Mr. Willard told me to go up on the train.

Q. After you got to Milwaukee, what did you do?

A. At Milwaukee I saw the two girls and told them that Mrs. Willard sent me up with money and they asked me how much I had.

Mr. TYRRELL: That conversation is objected to on the same grounds as before.

The COURT: The objection is *overruled*.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

I told them I received just enough money for their car fare. I telephoned Mrs. Willard on the long distance and told her I had arrived there and that they would be down tomorrow afternoon after talking with the girls. I returned to Chicago Saturday afternoon with Frances and Flossie. I purchased the tickets for the return trip with Mrs. Willard's money. They wanted to come on the North-Western railroad, but I did not have enough money with me. So I bought tickets for the Chicago & Milwaukee Elec-
106 tric Railway. We never changed cars until we got to Evanston then took a North-Western Elevated to the city, and took the street car from Van Buren down to Archer and 21st. Then went to 2034 Dearborn Street. It was raining and I ran ahead. Mrs. Willard — if the girls are coming. I said "Yes, they are coming down the street." Mrs. Willard, the colored maid and a couple of girls that roomed in the house were there when I arrived there with the girls. Mrs. Willard took them up stairs to change clothes, in the middle room. I went up stairs to Mrs. Willard's room. Then the two girls, Mr. and Mrs. Willard and myself went down to supper. After supper they went up stairs and the regular booking officers from 22nd street came in. The only part of the conversation I heard between Mr. and Mrs. Willard and the girls, was they told Frances to use her name of Bess and gave Flossie another name and tole them to tell that they were twenty years old. Flossie did not want to say she lived in Green Bay as her folks would know it and they told her to say she lived in Milwaukee. The girls went down stairs to see the booking officers. The booking officer had a letter in his pocket from Frances' father saying that the two girls had left Green Bay headed for Chicago, and probably went to the same house at 2034 Dearborn Street, and if they seen them to arrest them. I did not see the contents of the letter. The officer stated that to them. He was talking with Mrs. Willard and the two girls. They told them that they would not book them; to get their clothes and then the officers took them over to the 22nd street station. Mrs. Willard told the girls to tell the officer that they had been down in that house before. She wanted me to go to the 22nd street station to see the Captain and explain it to him. Mrs. Willard told me to tell the Captain that I was willing to marry Frances so they could not take her back to Milwaukee. I did that. The hearing of these girls was set for the following Monday, but continued until Friday.

107 Q. What did you tell the judge?

A. I did not tell him anything: he only asked me if Frances was willing to marry me.

Mr. TYRRELL: That is objected to.

Mr. FREEMAN: What is the ground of the objection?

The COURT: Overruled. Go ahead.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

At the station Frances told Judge Maxwell that she came down here to marry me. I told Officer Bernard I lived with my father, and he said "I will continue this case until Friday to see if this man is telling the truth." The following Monday I was arrested by Officer Dannenberger as a part of this case. For the last coupld of months I have been in the county jail. I am under indictment at present. This 2034 Dearborn street is in the City of Chicago, Cook County, Illinois.

Cross-examination by Mr. TYRRELL:

I am a decorator apprentice. My father is a decorator and painter. I was about fourteen years old when I finished school. Since that time I have spent most of my time working for father, washing walls and pasting paper. I never did any painting myself. I worked off and on for my father and for T. P. Trainor. I was with T. P. Trainor when I was arrested. I first met Mr. Wilson in the drug store; at his place at 2034 Dearborn avenue. I staid with this girl Bessie (Frances) off and on at the Imperial Hotel, for two or three weeks. From the time I first met her I staid with her at various other hotels down in that section for about two or three months off and on.

108 The first night I met Mr. Wilson I told him that Bessie wanted to board there. I did not tell him anything about my relations with Bessie. About two weeks after I met Mr. Wilson was the first time I mentioned anything about the improvements they were intending to make on his building. I just asked him who did his work and he said Carr and Moore. I did not talk with him about the price. I told him that my father and I were in that same line of business. When I talked to him then they hadn't commenced to make these improvements yet. I only stayed in that house over night once. I was up stairs in that house about two or three times, in the wash room, toilet up stairs. I was only in the rooms up stairs with Mr. and Mrs. Willard once or twice. I never went over the house with Mr. & Mrs. Willard with reference to painting and decorating to be done there. I have given all the conversation I ever had with the Willards about the decorating proposition there.

I told Mr. Wilson that Bessie wanted me to ask him to come to board there. He told me to tell her to come in and see Mrs. Willard. That was all of the conversation. I did not take Bessie there; I went with her. I did not talk. Bessie and Mrs. Willard did. That was my first acquaintance with Mrs. Willard. I waited in the next room during the conversation. There was no one in there except a girl sitting in the window. Bessie went to the Willard House around the latter part of April or early part of May; on that occasion she stayed about a week or two. During that time I saw her frequently. I never stayed there all night with her. The

occasion of her leaving there was when her brother had her arrested. I was not there at that time. There was a hearing on that and she went away to Wisconsin. While Bessie was at the Willard house on that occasion, I was there three or four times. I
109 did not have any conversation with Mr. and Mrs. Willard during those occasions except "Good Evening" and all that. I was not at the hearing at the police court when she was arrested. I heard that she had gone away from the Colored woman at Mrs. Willard's house; did not hear it from Bessie. I was born in 1891. Bessie had spoken to me of going to the Willard house to board, before I spoke of it to Mr. Willard. All I ever did was to tell Mr. Willard that she wanted to come over there to board. I never talked to Mrs. Wilson about it. I knew that this was a house of prostitution. I learned that Frances was in Milwaukee because I had received communication from her. The time this girl was first arrested, I went directly, that same night, to see the Willards. I knew then that she had been arrested. My conversation then with the Willards was only about her being taken to the station. I did not go to the trial. I next saw Frances when I went to Milwaukee the first time. After her arrest I dropped in to see the Willards about two or three nights in a week. There were five other girls there besides Frances. I jollied them, that is all.

I received a letter from Frances in which she said she was coming back. I told the Willards that Frances told me to tell them they would be back and wanted to know their address. The Willards said they were glad she was coming back. That is all that was said. Two or three days following I received another letter from Bessie. I just told the Willards I received a letter from Bessie and she told me to tell Mrs. Willard they would be back as soon as they could get there. The Willards said they were glad to hear it and they wanted to know where they were at and when they
110 would be back. Bessie did not give me her address. From the post-mark was all I knew. This conversation was the early part of May. I went to the Willards' the next night. They asked me if I heard any more from the girls. Mrs. Willard asked that. I told her "no." I went there again two or three nights afterwards. I had received another letter saying that they would be on their way in a couple of days. That was between the middle of April and the 12th of May. I had not been working at that time for about three or four weeks. I communicated with the Willards a night or two afterwards. I told them that according to the letter the girls would be here in a week or so. They asked what was keeping them so long. Bessie was arrested the first time before all this talk. I next saw the Willards a day or two later. Mrs. Willard was there. I did not have any talk with her about these girls. I next talked with Mrs. Willard over the telephone. She wanted me to meet her at the Union Depot at 6-30. I said I would. This was the 10th or 11th day of May. I met Mrs. Willard at the Union Depot. She explained to me that she was looking for Mr. Wilson and wanted me to look. I went in several places and bought drinks and inquired for him, but could

not find him. She would not go in the places where I went. This was about 8 or 9 o'clock. We came back to the Union depot and had supper. Mrs. Wilson said she had a notion to go to Milwaukee and take me with her and see if the girls were there. I did not usually talk to her. At the Union Depot Mrs. Willard wanted to know if I would go up to Milwaukee and look around and see if I might find them. I told her Frances sent a letter saying that she was stopping at the St. Charles, in Milwaukee. I said I would prob-
ably go that night or the next day. This conversation at the
111 Depot was the 10th or 11th of May. When Mrs. Willard and I were out looking for Wilson nobody else was with us. She was drinking too. She would give me the money to buy the drinks each time. Two dollars is the highest at a time she gave me in reageds to drinking. The entire evening she gave me about four or five dollars all told. When I got through I had two or three dollars left. I went to Milwaukee on the 11th. I went up there on that two or two-seventy-five. Mrs. Willard asked me if I had money to go up there. That was after she had given me the money to buy the drinks. She did not offer me any more at that time. I stayed in Milwaukee on that trip three or four days. I saw the girls there as soon as I arrived. I lived with a chauffeur friend of mine, and bought my meals on that two or three dollars. I did not get any money from Bessie. When I got up there the first time, was the first time I ever saw Flossie; she was with Frances on the other side of the rived when you come from the St. Charles Hotel. The girls did not come back with me on that trip. When I came back to Chicago, I went home to my father's place. I went down to the Willards' house the next night but they were not home. I arrived back here on Monday and I received a letter, the one referred to here by the Government, on Friday morning, of the same week. This letter said "I am home and would like to hear from you." From the time I came back from Milwaukee until I got this letter. I went down. I saw Mr. Willard first, and told him I received his letter, and he told me Mrs. Willard wanted to see me. I saw her and told her I saw the girls; that Flossie was working and Frances rooming with a girl friend there. She wanted to know why they did not come down with me. I told her that they were coming down as soon as they got some car fare; that they
did not have any. She got $11.00 and asked me if I would
112 take care fare up, and I told her I would. Mr. Willard said that would be enough; $11.00. Mrs. Willard gave me the $11.00 and told me to take that and get on the train and go up and tell them she wanted them to come down as soon as they could. There was nothing said in that conversation between Mrs. Willard and I about that amount of money being advanced on any painting to be done there. I did not give them any memorandum as to the repayment of this money. (Card handed to witness.) That is one of my cards. The address on it is in my hand writing, but the "I. O. U. $11.00" is not my hand writing. Frances is the only one of them that I remember of giving one of my cards. 5656 May street is the only part that is in my hand writing.

Mr. Tyrrell hands paper to witness, tells him to write "I. O. U."
Card marked by reporter "Defts. Ex. 1." for identification.
Sheet of paper marked "Defts. Ex. 2" for identification by reporter.

I went to Milwaukee then, on the 19th. I got this $11.00. I got back the next night. I met Bessie and Flossie up there. When we came back I got in the house ahead of them with the suit case because it was raining. Mrs. Willard and the colored maid were there. Took supper about an hour afterwards. We got there around 7 o'clock. The girls changed their clothing. These officers came in about three quarters of an hour. I don't know who sent for them. I do not know that day Mrs. Willard sent and had these officers
113 come there and take these girls out of this house; that I insisted upon their staying in the house. I was in the house. I did not talk much with Mrs. Willard she was talking to the girls most of the time. When I came there with these girls Mrs. Willard was just coming downstairs. I told her I had to run on with this suitcase, when she asked where the girls are, and in a minute or two the girls came and Frances introduced Mrs. Willard to Flossie. This was in the hall. I stayed there five or ten minutes. The girls went up to put on dry clothes. I saw the colored girl around there. She did not tell me that she had been directed to go out and get the policeman to take these girls out of the house. I knew that. About eight-thirty or nine o'clock that night the policemen did take them out. These girls had not been into any room assigned to them. Mrs. Willard told them she would have them, she said she had everything fixed up with the officer, so he would not say anything about her being there before. I have no promise at all of immunity in this matter if I testify in this case. I have talked with no official or officer or anybody except my father and mother about this case from the time I was arrested until taking the witness stand this morning. I have not talked to Mr. Parkins about it only the day I was arrested, last May; not since. I have not talked with Mr. Freeman in the marshal's office since talking with Mr. Parkings last Saturday. My father or mother did not tell me anything about immunity in this matter or less punishment if I would take the witness stand in this case. I pleaded guilty on my indictment the first time I was
114 arrested. I do not know anything about who sent for the officers or how they happened to come there the night the girls were taken there.

Redirect examination by Mr. FREEMAN:

These letters I have spoken about receiving were all from Frances. I never heard from Flossie.

Miss FRANCES BANCEL, called and sworn as a witness on behalf of the Government.

My name is Frances Bancel. I will be twenty-one this coming January. My home is in Green Bay, Wisconsin. I was born in

La Pinto. I have been living in Green Bay for the last seven or eight years. I am not living there now. The first time I ever came to Chicago, it will be three years this next March. I was then eighteen years old. When I first came to Chicago I was doing sewing.

Mr. ZOLINE: If the court please, I notice a material variance in the name of this girl as given on the stand and in the indictment, and if this is the girl that was brought in as charged in the indictment, then there is such a material variance as the testimony cannot be considered on that particular question, and therefore I object on account of the variance.

The COURT: What is the name given here?

The REPORTER: "Frances Bancel."

Mr. ZOLINE: You see there is a material variance.

The COURT: What is the name in the indictment?

Mr. ZOLINE: "V-a-n" hyphen "C-e-l."

Mr. PARKING: That is not a material allegation that a certain woman, to-wit, "Frances Van-Cel" it is idem sonans.

115 Mr. ZOLINE: I don't think so.

The COURT: Which count is it?

Mr. PARKIN: Count two, third line from the bottom. A certain woman, to-wit, Mary Jones would be sufficient to identify this witness if her name were Frances Van-Cel, in addition to that it is idem sonans.

Mr. ZOLINE: The Supreme Court of Illinois has held that such a variance is a fatal variance.

The COURT: You may save your point.

To which ruling of the court, the defendants and each of them by their counsel then and there duly excepted.

Three years ago when I came to Chicago I was employed at Miss Peterson's sewing on ladies' clothes.

The first time I had been in a house occupied as a house of prostitution of these defendants was in May, this year. I was regularly booked by police officers. The first time I was ever in the Willard house there wasn't anything very much said. We went with the officers right away; the bookers. When I first went in the Willard house I went upstairs. The bookers did not come there. The same day I came there the police officer booked us. I gave the name of Bess Beverly. I told where I came from. At that time I stayed in the house four days. I was engaged in the practice of prostitution. I didn't turn my money over to anybody: they took it away; that we gave to the maid in the house of these defendants. The fourth day I was there my father came down after me; he found me in the house and took me back to Green Bay. That occurred on the 4th day after I entered, while I was practicing prostitution in their house. We always ate first; they afterwards.

116 Mr. Willard was there all of the time.

When I got back with my father to Green Bay, I was there two weeks and then went to Milwaukee. While I was in Green Bay, I wrote letters to Earl. While in Milwaukee I dropped

him a card to Chicago. In Milwaukee I was not doing anything; I was not feeling well. I was there just a week. There were three of us there. Flossie Dion, the girl who afterwards came down with me, and Ella Kelley. I remember some time in May, along about the 13th of Earl Corder appearing in Milwaukee. He was there on Friday. I saw him.

Q. What did he have to say?

A. Why he wanted us to come——

Mr. MARKS: That is objected to.

The COURT: Was that the conversation which he was asked about and which he gave?

Mr. PARKIN: It is competent either on that theory or on the theory that this is a conversation with one of several co-conspirators: the indictment her- charges in addition to a violation——

The COURT: Overruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

Mr. PARKIN:

Q. What was the conversation?

A. Why, he wanted us to come down to Chicago here and we would not do it.

The COURT:

Q. How do you know that he wanted you to come down?

A. Why, he asked us to.

Mr. MARKS: I ask to strike that out as a conclusion.

117 The COURT: Over-ruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

The COURT: Did he say anything about what you were to come here for?

A. He said we should come down here to go in the Willards' house. He was there from Friday until Monday. The following Friday I saw Earl Corder in Milwaukee again. I did not have any conversation with him the first time that he was there about his coming back again. The second time I met him up at the room where I was rooming with Flossie and the other girl. He was there when I came there. Our conversation was the same as the first. He kept coaxing us to come down to the Willards' house. He said if we would come down here we would get a lot of nice clothes and everything, and he kept coaxing and coaxing and we said no, and finally he got us to go. Earl had money with him. Flossie, Earl Corder and myself left the house together. We went to the electric car line office and bought the tickets.

Q. With whose money?

A. Why, he said that he got the money from Zoe Willard.

Mr. MARKS: I move to strike that out as not responsive.

The COURT: Overruled.

To which ruling of the court the defendants by their counsel then and there duly excepted.

He told me he got the money from Zoe Willard, the defendant. He said twelve dollars, I think. After we got down to the station and the tickets were purchased I got on the car; got off at Evanston; took the elevated; got off at Van Buren street; from there we
118 took the car as far as Archer and got off at Archer Avenue and 20th, and then went down to the house. When we got to the house there were four girls there and Zoe and Mr. Willard. I don't remember if there was a maid there. I did not see any men stopping in the house. Zoe Willard said she was glad to see us come back. We went down to the supper table and there she told us she would get us each a nice gown and would take it out of our first week's wages; a gown for around the house. It was customary for the girls in the house who were practicing prostitution to have a particular kind of a gown in which to do business.

Q. In which to solicit business?

Mr. TYRRELL: That is objected to.

The COURT: Over-ruled.

To which ruling of the court, the defendants and each of them by their counsel then and there duly excepted.

Mr. PARKIN: Was that the gown which she spoke of?

A. Yes.

Mr. TYRRELL: It seems to me that the conversation ought to determine the kind of a gown that she was talking about without the conclusion of the witness.

The COURT: I shall have to ask you gentlemen, if you all represent the defendants, or does any one of you represent any one particular defendant?

Mr. ZOLINE: I have just been watching the testimony, and Mr. Marks is going to cross examine but when an objection is made, it may suggest itself to any of us.

The COURT: Whom shall I recognize of the defense whilst this witness is on the stand?

Mr. ZOLINE: I think your honor ought to recognize us all.

The COURT: I won't do that: I will recognize one on a side.

119 Mr. ZOLINE: Exception.

The COURT: You decline to have one lawyer represent the defendants?

Mr. ZOLINE: Yes, your honor, in a case of this kind.

The COURT: Very well, then, go ahead.

Mr. PARKIN:

Q. Were you to begin practicing prostitution that night?

Mr. MARKS: Wait: I object to that.

The COURT: Just a moment: whom do you represent Mr. Marks?

Mr. MARKS: I represent the defendants with Mr. Zoline and Mr. Tyrrell.

The COURT: Are you going to represent all of the defendants during this examination, in this trial?

Mr. MARKS: I did not understand what your honor said.

The COURT: Will you take care of the interests of your client during the examination of this witness or the direct examination of this witnesses?

Mr. MARKS: Will I do——

The COURT: The rules of this court are that only one lawyer is to represent one side where he represents all of the defendants.

Mr. MARKS: My objection is——

The COURT: Will you represent these defendants during the examination, the direct examination?

Mr. MARKS: I will make the objections as I believe they ought to be made.

The COURT: Will you answer the question.

Mr. MARKS: Oh yes, I shall.

120 The COURT: I will recognize you and I don't care to hear from either of the other counsel during the direct examination of this witness.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

The COURT: It is stricken out; proceed.

I was to begin practicing prostitution in the house on the same night. It was about twenty minutes before I finished super. Then I went upstairs. Prior to the time the officers came Zoe Willard wanted to know if we had to go right away. Down at the table she told us about the gowns.

Mr. PARKIN: Now, I say, either before you came down to the table or after-wards, and before the officers came, did you have a conversation with her or Mr. Willard?

A. I don't remember.

Q. About the name you should use?

Mr. MARKS: Wait, I object to that. It is suggestive.

The COURT: Overruled. Answer the question.

To which ruling of the court defendant- by their counsel then and there duly excepted.

A. I don't remember.

I was to go by the same name I went at first, Bess Beverly. Earl told me to say that; that was in the house. Just as we came up the stairs from where we had been eating the officers came. They asked us our names: he knew me: Officer Brennan took out a letter that he had from my folks that said that if they found me down here, that they should take me home. The officer said he would have to take us to the station. When we were upstairs the officers were downstairs. Flossie, Earl, Zoe Willard and I were in this

121 room upstairs. Zoe Willard did the talking. She said when I got to the station I should say that I was in a family way and that Earl would marry me. She said then we would not get in no trouble, that he would marry me and everything would be all right. I don't remember anything else in that conversation.

Nothing said to Flossie in that conversation that I remember of. I was not in a family way at that time. From the house occupied by these defendants I went to the police station on Saturday and on Monday we had a trial. Earl appeared there. The defendant Willard was not there. I told the Judge I was in a family way and that Earl would marry me. Earl was there; he said that he would. After the hearing at the police station I next went to the Harrison Street Annex. Police officer McDermott brought me over to this building and I talked with Mr. De Woody and yourself. We had a hearing. After that I did not leave Chicago, I have been here all the time since. I was at the Harrison street Annex for five weeks, under arrest for a while. Until last Saturday I was sewing; I have been here ever since in this building waiting for the calling of this case. I have a position here in Chicago doing sewing. If I still keep my position there I expect to sew after I am through testifying here.

Cross-examination.

By Mr. MARKS:

I am going to be twenty-one in January. It is going to be three years in March that I first came to Chicago. I started sporting about a year ago; last May, when I got in Willard's house. I started sporting in the Imperial. I lived there about two weeks. It is a
122 café. Up to the time I lived in there I never knew Zoe Willard; had never been in her house up to that time. I have never staid with men. Jack Williams was the first man I had intercourse with; about five or six months before I met Earl. I had intercourse with nobody at all from the time I had been running around with Williams. I was not living any place at all with Williams; I was rooming out south in a private family. I was working then. When I broke up with Williams I took up with Earl. I was with Earl only two weeks about before I went into the other house of prostitution. Earl suggested my going in the Willards'. He brought me into the Imperial; he put me in there. He took my money away from me. He was taking my money away from me as long as I was at the Imperial; about two or three weeks. Then he took me over to the Willards'. I was there four days. Earl did not come in there very often; he came there every day when I was to go home; about three o'clock in the morning. I went home with him every night. We would stop at the New London Hotel; I think it is on Michigan around 18th.

My father came to the city. I was arrested down at the Willards' house; I don't remember the day, it was in the morning. We left there at 9 o'clock for court. A police officer took me out. I don't know his name. I did talk to Mrs. Willard the morning I left. I had seen her upstairs. Earl was present when I was upstairs. I was before nine. I don't remember if the officer came upstairs. The officer was there the night before and told me that I had to go to court the next morning. He didn't take me out that night. Mrs. Willard was upstairs in the hall; I saw her there. The maid

went down with the officer and Earl and myself. I did not
123 see my father there. My brother was not there. Mrs. Willard did not tell me to go on home if my people wanted me and to stay there. She did not say anything when I was going out of the door the first time. She did not say anything in front of the officer about that. The officer was in uniform. That morning with the officer I went to the Harrison Street Police Station, up to the Annex and waited there until my father came after me and took me home to Wisconsin. Earl knew where I was living while I was there. I was corresponding with him right along. I don't believe he wrote first. I was in Green Bay, Wisconsin about two or three days before I wrote to Earl. I did not give him my address in Wisconsin. The next time I wrote to him was when I left Green Bay and went to Milwaukee, I dropped him a card,—two weeks after I got to Green Bay. I never told him to meet me in Milwaukee. I wrote him that I was going to Green Bay, because I though- I would drop him a card, that is all. I dropped him a card from Milwaukee. I did not tell him where I was living in Milwaukee. We had stationery from there, from the St. Charles Hotel. I just got in the hotel and we went in the parlor and wrote the letter. Didn't stay at any hotel in Milwaukee. We lived at 5th and Wells, a rooming house. I don't know how far that is from the Imperial Hotel or the St. Charles Hotel. That time that I went up there to the St. Charles Hotel to write a letter was the only time I was ever there. I never stayed there. I never told Earl I was staying there. I don't remember how long I was in Milwaukee before I saw him there. I was there not quite two weeks. During that time I wrote Earl about three times, before I saw him in Milwaukee. Flossie and I were coming down the street and we happened to meet him coming
down the street just as we were crossing the bridge. I don't
124 remember the time, it was in the afternoon.

I left Green Bay because I could not get along with my sisters when I went home after this trouble. Then I wrote Earl in Chicago, and he would write me. I wrote him when I got to Milwaukee. It was about four or five days after I wrote him that he came down to Milwaukee. I was not doing anything there at the time, because I was sick, but I intended to go to work the next week. Flossie is a girl pal of mine from Green Bay. She was working in the Paris Fashion Store, in Milwaukee. We were not living with men in the house; we were living in there. I don't know if there were any men in the house; I did not see any there. Lived there a week, I think. When we first met Earl in Milwaukee, he came up to our room, where Flossie and I were stopping. He came there on Friday and left on Monday. He stopped off at a hotel not far from where we were, he said. I don't know if he lived there or where he was rooming in Milwaukee. I saw him every day; not every night. I did not live with him in Milwaukee, I was living with the two girls. The other one is Nellie Kelly. I don't know where she is now. She worked in a restaurant on Grand Avenue, I don't know the number. I don't know if she is there yet. She was rooming with us. I don't know the name of the restaurant.

There were no men with me in Milwaukee; besides Earl. There were no men with Flossie. There was nobody else with we two girls from Milwaukee to Chicago except Earl Corder. When I first went home I could not get along with my sister and I wrote to Earl and told him I wanted to come to Chicago but I did not have any money, but later on, I changed my mind. I did not write him from Milwaukee, that I did not have any money and wanted to come to Chicago.

125 When I came to Chicago from Milwaukee, we came in from Evanston & we got off at Archer; Earl and Flossie and I. We went right to Willards'. We were all together, and he said that he would go first and we would come right behind him; we did that. We were about a block behind him. He was in the house no more than five minutes before we got there. I saw the girls in the house or Mrs. Willard at the door when we came in. I don't remember whether the colored girl was there or not. Oh, yes, she opened the door and let us in—she came outside. When I got inside the house there were some of the girls there; Mrs. Willard was standing at the head of the stairs up stairs. It was around six or seven o'clock in the night. It was raining. We were wet. We went up stairs; saw Mrs. Willard. Flossie and Mrs. Willard and I went down stairs and ate; I think that was all that was there. I don't remember if the maid was there. The cook was waiting on us. After I got dinner, I went up stairs. There was an officer there. I had not seen any men in the house; had no connection with any men in the house; or the other girl. We had dinner in the basement. The officer was on the main floor. I talked with the officer about ten minutes before they took me out of the house. One of the officers that took me out of the house was Brennan. I don't know whether or not the officers were telephoned for after I came into the house; I didn't hear that. I did not hear that Miss Willard directed the maid to telephone for the police officers to come over there, but she told us the bookers were coming. By bookers I mean to be booked; Brennan was one; I don't know what he is. I don't know if he — a police officer of the city of Chicago.

126 The man that came over there took us to the Harrison Street station. He was a police officer. There was another man with Brennan. I didn't know the man. He went over to the station with me. At the station they locked us up down stairs. He was with Brennan when he did that. I never lived with Williams. I did not stay with any other man outside of Williams and Corder. Lillian Loy, 3407 South Halsted street used to work with me where I am working now. I know a man by the name of Ben Marks. I told her that I was living with a man by the name of Ben Marks. I am not though. I am living at 31st near State myself. I told her that since this indictment has been brought; since I have been taken to jail, and since I have been working as a seamstress. It is true that I am a seamstress and am now a virtuous girl.

Redirect examination by Mr. PARKIN:

I don't know if this Mr. Marks is any relation to the other Marks. I don't know the man. This Marks that counsel has asked about rooms at the same place that I do. I have not at any time been living with him; since I was arrested and have been working.

This Brennan who came into the place was a plain clothes man; not in uniform, no star of any kind on his coat and nothing to indicate that he was a policeman.

Recross-examination by Mr. MARKS:

This Marks lives at 31st near State: he is a saloon-keeper. I did not tell the girl that I got fifteen dollars a week out of him. I did not tell the girl within the last two or three months that I was getting from this Ben Marks, subsequent to the time
127 of this indictment, fifteen dollars a week. I never said he was a married man.

F. J. WILLIAMS, called and sworn as a witness on behalf of the Government.

Direct examination by Mr. FREEMAN:

My name is F. J. Williams. My business is a grocery clerk; at 164 North State street, the Randolph Market. I know the defendants Mr. and Mrs. Wilson. I met them in the grocery store, about February, March or April of this year. The first time they came in Mr. Wilson asked me if I could give him any reduction in the prices of groceries if he would buy a big bill of goods, and I told him I would, and he left an order with me. I received several more orders.

Q. During what period of time.

A. Why, about a week or two weeks.

Mr. ZOLINE: I object to that: I can't see the drift of it all?

Mr. MARKS: The objection is that it is irrelevant and immaterial.

The COURT: Overruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

I sold them goods in February, March and April as far as I can remember. Mr. Wilson left the orders with me for the goods during all this period of time. The goods were sent to 2034 Dearborn street.

Mr. ZOLINE: No cross examination. We now move that all the evidence of this last witness be stricken out as immaterial and incompetent.

The COURT: Overruled.

128 To which ruling of the court, the defendants and each of them by their counsel then and there duly excepted.

FLOSSIE DION, called and sworn as a witness on behalf of the Government.

Direct examination by Mr. PARKIN:

My name is Flossie Dion. I am twenty years old. My people live at Green Bay, Wisconsin. I know Earl Corder. I first met Earl Corder in Milwaukee, about the 11th or 12th of May of this year, right near the bridge. Frances Bancel was with me, the Frances Bancel who just testified here.

Q. Now, what conversation if any did you have with Earl Corder on that occasion?

A. Why, not any on the first day.

Q. When did you have any, if you did have any?

A. When he was about to leave.

Mr. ZOLINE: I object to that: any conversation or conversations, so as not to repeat the objection each time, in the absence of either of the defendants: I wish the objections to show and the exceptions to show right along.

The COURT: Yes, overruled and exception each time: you need not repeat the objection; the record will show that you make it. Proceed.

Mr. PARKIN: When did you have the first conversation with him, or hear him have a conversation with Frances?

Mr. ZOLINE: That is objected to.

The COURT: Overruled.

To which ruling of the court the defendants and each of
129 them then and there duly excepted.

A. When he was about to leave.

Mr. PARKIN:

Q. What was the conversation?

Mr. ZOLINE: I object.

The COURT: Overruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

A. About coming to Chicago.

He asked us to come to Chicago to go down to Willards'. I knew what business they were engaged in, an ill-fame house. I did not accompany Earl. The next time I saw Earl Corder was on the following Friday. I met him just as I was coming out of the restaurant. He was alone. I went with him up to our room. Frances was there. I did not have any conversation with him until the next day noon. He begged us to come to Chicago and said when we got here he would bring us over to the Willards' and we would have everything we wanted; he said she would get us some clothes. In the Willards' house we were to work there. By working I mean sporting. Earl did have money with him. He did not say anything respecting that, that I can remember of.

Q. Now, at this time you were working in some store, were you not?

A. Yes, sir.

Mr. MARKS: At that time; I object to that. I object to it as suggestive and leading.

The COURT: It is, but she may answer the question.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

130 A. Yes, Paris Fashion.

There had been no conversation on Friday, this was all on Saturday. He coaxed us and we didn't want to go, and then I was late for work and I got kind of disgusted, so we made up our minds to come. We went over to the interurban station, and bought the tickets. Earl bought my ticket and Frances's with money that he had. We got on the interurban cars at Milwaukee, Wisconsin, and got off at Evanston; I don't know whether it is in Wisconsin or Illinois. I don't remember where we got off from that car which we took at Evanston. We came right here to Chicago, and went down to the Willards'. I don't know the number of the house; it was Dearborn street. It was an ill fame house. Frances was with me when I got to the house. I did not ring the bell at the door the maid was outside; she was dark. She let me in. When I got inside I saw girls and saw Mrs. Willard. I think she was up stairs. She said "How do you do." She was glad to see us. That was all at that time. We went down to dinner then; Mrs. Willard, Frances and I, I think that was all. I don't know where Mr. Willard was at this time. He was in there that evening.

While we were eating down stairs in the basement, Mrs. Willard said on the following Monday that she would buy each of us a new gown for the house, and said she would take it out of our pay at the end of the week. Nothing else said at the dinner table that I can remember. After dinner we went up in the hall. The bookers were there. They knew Frances and they took a letter out that her father had written them, and they took us out of there.

Before we left the house, we went up stairs to get our clothes.

131 I saw Mrs. Willard up there. She told Frances to say that she was in trouble and that Earl was to marry her. She didn't tell me to say anything. I don't think there was anything else said at that time. Then I was taken to the police station and within a day or two was brought to the Federal building. After that I went to the Willards' house to get a suit case I left there. At that time Mrs. Willard gave me her address and told me to write to her and said that they would change detectives and that I could come back. She did not say when they would change detectives. When I arrived at the house and went up stairs the first time in that conversation Mrs. Willard said she was going to send one of the girls away and that Frances and I could have the room which that girl occupied. That occurred before supper. I don't think Mr. Willard was there at that time that she spoke about the room; I don't remember. Since I was in the Federal Building I

have been in Milwaukee and at home. I came back here to testify in this case this time, Saturday, last week and have been here since then. My parents are living in Green Bay. My father is a sawyer, a lumberman.

Cross-examination by Mr. MARKS:

Dion is my right name. I knew Frances for three or four years. I did not meet her any other place outside of Green Bay. I was never to Milwaukee with her before that first time. I was running around with her in Green Bay. I did have intercourse with men in Green Bay, for about a year. I did not go to Milwaukee
132 to live in a house. I did have intercourse with men in Milwaukee. I don't know if Bessie did. She did not take men to my rooms. I did take men up to my room where I was stopping in Milwaukee. That was not a sporting house. It was a rooming house. Earl did not stop there. He slept with Bessie while he was there. I don't know how many nights. He was not in our room only in the evening. He took her to some hotel. I was not up in a hotel. They came back the next morning to my room. Earl was there two or three times, in Milwaukee the first time, I guess. After Earl left I was working during the day. I was not sporting at night. Bessie was not doing anything. I don't know if she was sporting there. After Earl came there the second time he was there just one day. He came about six o'clock on a Friday. I don't know where he stayed that night. He was with Bessie. Bessie and I did not sleep together that night. At noon the next day Earl approached me to come to Chicago. Left Milwaukee between two and three, and got to Chicago about five or six. Got to Willards' house about six o'clock. Frances and I went up to Willards' house. Earl went ahead of us about a block. When we got in the house I saw Mrs. Willard. I never saw her before. The colored maid let us in. When I came in we went up stairs. I saw Mrs. Willard up stairs in the hall. I don't know where she was coming from. I don't know the location of the rooms up stairs. I stayed up stairs just a few minutes, then went down to dinner. I don't remember how long we were down there. There was nobody there for dinner except Frances and Mrs. Willard and myself. I don't remember who went down first. We three sat down
133 to the table together. I guess we waited on ourselves. I don't remember if there was a colored cook there waiting on us. When I came up stairs I saw the detectives. I don't know who sent for them. We had been in the house about half an hour. When I came up I saw these two officers. They spoke to me. I talked to them just a few minutes. They showed us a letter Frances' father sent and then they took us away, to the station. Before we went down to dinner, while we were up stairs, Mrs. Willard said she was going to call them. The conversation between Mrs. Willard and I down stairs was that she was going to get us each a new gown and she would take it out of our pay at the end of the week; nothing else that I remember. After that I came up stairs and the officers took me over to the 22nd Street station. I did not hear

Mrs. Willard give directions to anybody to call the officers; not while I was up stairs. While I was in Willards' house I did not have intercourse with any men.

Redirect examination by Mr. PARKINS:

The conversation between Mrs. Willard and we girls about the new gowns and about discharging one of her girl inmates in order that we might have a room occurred subsequently to the time when she said she would call up the police.

134 LADIS BANCEL, called and sworn as a witness on behalf of the Government.

Direct examination by Mr. FREEMAN:

My name is Ladis Bancel. I am a brother of Frances Bancel, the witness. I did in April, and again in about the 18th or about the middle of May of this year, notify the police department of the City of Chicago to be on the look-out for my sister.

W. C. DANNENBERG, called and sworn as a witness on behalf of the Government.

Direct examination by Mr. PARKINS:

My name is W. C. Dannenberg. I reside in Chicago. My business is Special Agent of the Department of Justice of the United States Government. I know the defendants in this case. I was present at the house of prostitution run by these defendants on the night that they were arrested. After the arrest I saw the defendants in our office in this building, 859. Mr. De Woody and yourself, the defendants and myself were there. Mr. De Woody and myself talked with Mr. Willard, examined him and Mr. Willard was asked the question of whether he didn't pay Earl Corder $11.00 to go to Milwaukee and bring back the two girls, and he said that he hadn't but that his wife Mrs. Willard had given Corder some money to go to Milwaukee.

It is admitted by the defendant that the corporations named in the indictment are engaged in carrying passengers in interstate commerce, as charged in the indictment, and incorporated as therein averred.

135 The police regulation is that any resort owner who receives new inmates to a house must call the police officers who are known as booking officers to register them. Failure to do that has a penalty of a small fine. That must be done before girls actually have intercourse with any men in the house. Whereupon the Government rested.

Mr. ZOLINE (In the absence of the jury): Now in behalf of each of the defendants I move that the indictment in this case be dismissed on the ground that Section 2 of an Act of Congress entitled

"An Act to further Regulate Inter-State and Foreign Commerce by Prohibiting the Transportation Therein for Immoral Purposes of Women and Girls, and for Other Purposes," and particularly Section 2 under which this prosecution is based, is unconstitutional and void and contrary to the 10th and 5th Amendments to the Constitution of the United States, in this, that said act is not a regulation of commerce between the states, but a regulation of vice between the states; that said Act does not purport to regulate any vice while in transit; that the offense created by the aforesaid Act and by said section thereof is not constitutional and within the power of courts to pass upon: that this court is without jurisdiction to hear and determine this matter, and for the reason that the indictment is in all other reasons insufficient and indefinite and contradictory.

The Court overruled said motion, to which ruling of the court, the defendants by their counsel excepted.

Mr. ZOLINE: I have another motion. Now I move the court to direct the jury to find the defendants not guilty on the ground that the evidence discloses that the purpose for which these girls
136 have been imported has never been consummated, and that there has not been any offense committed under the Act.

The COURT: Overruled. Bring in the jury.

To which ruling of the court, the defendants and each of them by their counsel then and there duly excepted.

MILDRED MCCLOYNE, called in behalf of the defendants, testified:

My name is Mildred McCloyne. I live at 3014 Wabash Avenue. I have known the defendants here, Mr. and Mrs. Willard for most a year. I got acquainted with them by working for them. I don't remember just when I began, but it was most a year. I was working for them last May and April; as a maid. I do know Bessie. She was there ten or eleven days the first time. I was there when she came the first time, and when she went away. I don't know the circumstances under which she left when she went away. Her father had taken her away. She was arrested at that time, just before Good Friday. I did go to court with this girl. When she went away that time I presume she was gone about four weeks. I was there when she came back again. Another girl was with her. I think her name is Flossie. It was near six o'clock on Saturday evening when they came back to the house. I was in the hall when they came; they came in; they were alone. Bessie said "How do you do, Mildred," and I said "How do you do." It was an awful rainy evening. These girls were wet.

They came in I hollered and told Mrs. Wilson there was two girls there, I said that Bessie had returned, and she said
137 "My God, what did you let them in my house for?" Mrs. Willard was up stairs in the bath room when I hollered to her, and the girls were down stairs in the hall with me. They had a suit case. They sat it down in the hall; pulled off their coats and said it was raining so hard. I took their coats. I asked Mrs. Wil-

lard if I should give them some coffee and she said no, but go and get an officer right away. Mrs. Wilson said that. I called up the police station several times, and they did not come right away, and Mrs. Willard said for me to go out and get the officers right away. I went out around the corner at 21st street. I did not meet any officers there. Mrs. Willard said she wanted the girls taken out of her house. At the time Bessie came with this other girl in the house, I think there were five other girls there. There were six bedrooms in that house. Mrs. Willard stayed there once in a while. She had the rear room up stairs, but never used it. I think it was about a half or three quarters of an hour after I went out that the officers came. I had gone home before the officers came. I was not there at the time they came. I did not see these girls any more. I had taken them down stairs, and sat them at the table and came right up stairs to take car- of the business up stairs. Just the cook, the two girls and myself were down there. Mrs. Willard did not come down there while I was there.

I know Earl Corder when I see him. He did not come with these girls the last time; he came there after they came; he came there as I was leaving the house; he came and I called to Mrs. Willard. I did not see him before that day. He was around there at that
138 time. When I called to *to* Mrs. Willard, when Bessie first came in with this other girl, she was up in the bath room. She said "Why did you let those girls in the house."

Cross-examination by Mr. PARKIN:

That was the 20th day of May that they got in the house. I was in Chicago all the month of May. I was not in New York at all during 1911. The day of the week was Saturday, the 20th of May. I went on duty that day about 9:30 in the morning I guess. I don't quite remember how long Bessie had been in the house the time previous; I know it would not be more than ten or eleven days; it could have been as small as four days; but I don't remember it was so far back. My business down there is to be in the hall to see anybody that comes in; to see that nobody carries off the furniture; I am the one that let anybody in that comes up and wants a girl. All I know that Mrs. Willard said to me or to the girls that night is "My God, why did you let them in" and "Get an officer." She didn't say "Call up," she said "Get an officer." I always call up the officers when new girls come there. She told me to hurry. I called up the police station that night, but they didn't come right away; I went out to look for them on the street; I didn't find them; meanwhile I telephone- down for them. Mr. Brennan and Mr. Walsh came shortly afterwards. I presume they got word over the phone. I never talked to them. I did not see them. I was not there. I know nothing about what they did after that, what happened at all. There were six bedrooms and only five girls in the house; room for one more girl. I left Bessie, the cook and the other girl down at dinner that night, and I came right back up. Mrs. Willard
139 was not down there while I was down there. They had come up stairs before I left; the officers had not come yet. They

must have come after the girls came up stairs. I am not working for the Willards. I am working for Miss Monroe. She is running the house Mrs. Willard had. I am still working there.

I have spoken with Mrs. Willard and her lawyers about my testimony. I first talked with Mr. Marks. I don't remember when that was. I guess I saw him not more than twice, and one time I talked with Lawyer Marks about this case. The first time I talked with him was in his office. Miss Adams, Mrs. Willard, her lawyer and myself were there. Miss Adams is a lady that was living at Mrs. Willard's at that time. One of Mrs. Willard's prostitutes. I did not speak with anybody before I got down to the lawyers' office more than merely spea-ing around. When I got down to his office Marks told me to tell the truth, and to say what I knew about it. I told him I knew nothing about it. Then he talked with me a little while, and then I found I knew something about it. About all I knew about it was that I worked there, and the girls came there and I left them there and went away.

Redirect examination by Mr. TYRRELL:

I told Mr. Marks that I went out to call the officers. What I testified to I knew to be the facts from my own knowledge.

140 LUCILE ADAMS.

Direct examination by Mr. TYRRELL:

My name is Lucile Adams. I live at 2127 Dearborn Street. I have lived in Chicago almost two years. I have known the defendants Mr. and Mrs. Willard almost a year. From February until June I resided at their place on Dearborn street. I was never personally acquainted with them before that. I did not know a girl by the name of Bessie or Frances down there. I was not there continuously all the time from February to May or June. I was in Louisville, Kentucky Easter week, for one week. They fixed a couple of the windows and were having some painting and finishing and repairing the house in general around May. It was just an ordinary size house; six bed rooms. During April or May there were five or six girls there. When Bessie was taken out the second time, I was in the house in the front parlor. It was on a Saturday night. I do not know a fellow by the name of Earl Corder. I was present when the officers came in there at the time this girl Bessie was taken out. I do not remember any conversation between the officers and Mrs. Willard and the girl. I do not know Corder personally. I think I would know him if I would see him. (Corder requested to stand up.) That is the party. I saw him at the Willard house. I did not see him there the night these girls were taken out. I saw him there before that. About a week or something like that before the girls were taken out I heard Corder talking with Mrs. Willard about the painting. I did not hear any conversation only that he was to paint the rooms for her. They were up stairs looking at the bath room and at my room
141 when I first saw him. I did not hear further than I have just spoken of, only just the painting.

Cross-examination by Mr. PARKIN:

I am not a married lady. I have been married. My real name is De La Salle. My husband's name was Howard. I am French. I have been a sport for five years, about. I am still a sport; sporting at 2127 Dearborn Street. That is La Salle & Tonyers' place. That is not a French House. While I was in Louisville they repaired the house in general; cleaned it out. Corder was going to decorate there. I do not know of his doing anything there about repairing the house or calcimin-g or papering. About a week before the girls were taken out the last time I heard him talk with Mrs. Willard about calcimin-g or papering or painting the house. He did not do any work in the house that I know of; not while I was there. Some other decorators started to do it. They fixed the windows, that is all they ever got done. They did not finish it. Those decorators were not Corder, and were not his father.

CHARLES M. WILSON.

Direct examination by Mr. TYRRELL:

My name is Charles M. Wilson. I reside at the present time at Cedar Lake, Indiana. The last established residence in Chicago was at 6126 St. Lawrence Avenue, up to the 1st of July of this year. I am forty. I am one of the defendants in this case. The last established occupation that I had was that of a superintendent of printing, in connection with the Hearst paper in Chicago.
142 I discontinued that occupation around the month of February, of this year. I had been with the Hearst publications sixteen years. The co-defendant here is my wife. I was married on May 4, 1910.

I met Earl Corder in a drug store on 21st street near Armour Avenue in the early part of April of this year. Never had seen him prior to that time. I was in the drug store in the evening and this young man was in the store and he approached me in that store and wanted to know if my name was Willard. I told him no sir, that my name was Wilson. He wanted to know if I was the man that had charge of the alterations required that was taking place at 2034 Dearborn Street, and I told him that I was, and then he says "It is Mrs. Willard's place." And I says, "Yes, that is my wife." He wanted to know if there was any work to be done in the painting line: he said that he was a painter and worked with his father as a painter, but was out of work. He said that there was a girl in that house at 2034 Dearborn Street by the name of Bessie; he stated that he had lived with this girl in a hotel adjoinign this building, on Armour Avenue, known as the Imperial Hotel; that he had reason to believe that he had this girl in a family way, and it was his desire to go to work as a painter and get out of the business; that he had some of her clothes at his parents' home in south May Street in a grip, but he wanted to get away entirely out of the neighborhood as soon as he could. I told him at that time that the painting, the repairs were not in progress to such an extent that the painting was ready to go ahead; that any contract that would

be entered into, he would have to consult with my wife about as the property was hers, the lease.

143 When we took forcible possession of this house in February it was in awful condition both interiorily and exteriorily, and my wife decided that she would spend a few hundred dollars to put it in shape and get it back to be a good salable house, and she consulted with me and we determined early in the year that the best thing to do would be to alter the entire front of the building down stairs, change the front entrance, change one window to a bay window; change the side entrance interiorily by putting in an entirely different entrance and fix up the screens in the house, renovate and painting the inside all the rooms and all the halls, inside and outside repairing and decorating. I think in April the work was either near the end or just started. When this trouble arose all the work was not completed.

Corder came into the house at 2034 Dearborn Street the same night, possibly an hour later, after I had this conversation in the drug store. In the meantime I had told my wife about meeting such a person. I introduced him to my wife and she said that she would leave the thing to me and I could show him around. Corder was taken around the house. He was up stairs to the bath room, the hall, back bed room down stairs, and a kind of a wash room and a couple of closets in it down stairs. Corder determined that he could do that work for about thirty dollars. We said we would consider his proposition. He handed me his card with his home address in his own handwriting and said when we got ready to let him know.

This Government Exhibit 2 is in my wife's hand writing. That letter was sent in compliance with his request that we would consider his proposition in regard to the painting, that we could

144 writ- to the address which he gave me on the card, which I believe counsel has. I had been to Fox Lake, Illinois, previous to May 19th, the postmark.

I did not receive this post card marked Government Exhibit 3, referring to "Everything is peaches and cream." That is addressed to my wife: I knew of it at the time. To the best of my recollection, I was in Fox Lake when that was received at 2034 Dearborn Street.

To the best of my recollection Bessie was in the house a day previous to this interview with Corder at the drug store. I think she was there at that time about four or five days. I don't know personally about the occasion of her leaving that house on the first time. I did not see any act committed in which she was taken out of the house, but I know of her being taken out of the house. I never saw her after she was taken out the first time. I heard the testimony of Corder's to the effect that when he came back the second time Corder and these two girls and I, about that taking dinner in the basement. I was not present at any such dinner as that; I was not in the building. I never met Corder at the Union Depot or any other depot. I heard Mr. Corder's testimony wherein he detailed a purported conversation in which I said in speaking of Bessie, "I am glad to hear that the girl has come." I did not have

any such conversation with him. I was not interested in her at all. I never told him to find this girl Bessie. I never gave him a cent for any reason at any time. I never had any conversation with Corder relative to the bringing back of Frances.

145 I had two or three conversations with Corder. The first one was at the drug store, and then down at my house. The next conversation I think I had with Corder was possibly three or four days later, after the conversation in the drug store. He stated that he had been trying to get the rest of Bessie's clothes out of this Imperial Hotel, and they had kicked him out and beat him up. He was going to take her clothes home. This conversation was in 2034 Dearborn Street. My wife, Corder and myself were present.

Cross-examination by Mr. PARKIN:

I was born in Franklin, Pennsylvania. I am a son of Emory A. Wilson, piano dealer at Franklin, Pennsylvania, and County Treasurer at the present time. To the best of my knowledge the members of my immediate family in Franklin, Pennsylvania, are my father and mother. I have been married twice. My first wife's name was Andre. I don't know where she is now. I was divorced from that first wife, in Chicago. I have had two alleged divorces, one was not a satisfactory one, because it was a misrepresentation to me by the lawyer, and the one real, genuine divorce. The final would have to be put December, 1909. I would not say the first one was "crooked" in that proceeding at all; I would not term it an illegal proceeding. I brought a separate and distinct suit thereafter because the lawyer said that he had a decree for me when I was in New York, but when I came back, I found that he could not produce the divorce because he had got in some kind of trouble himself and skipped, and I never got any satisfaction out of him. To my knowledge, this woman whom I first married and first tried to divorce is not living with my fa*ht*er Emory Wilson now

146 in Franklin, Pennsylvania.

The decorating has never been completed; the entrance which constituted the outside of the front door, the inside of the same door and the immediate entrance in the vestibule which was done by Carr & Moore, all the rest of the work shown to Corder has never been started. Never contracted for by Carr & Moore or anybody else. I never brought any suits against Corder for the recovery of any money advanced to him on account of any alleged work, or contract. To my knowledge, my wife did not. I have never made any claim against him.

My wife and I made the entries in the books kept in that house. (Witness explains which is his and which is his wife's hand writing on Page 199.) I am familiar with my wife's hand writings. All that hand writing on page 200 at the bottom is mine. The item here April 5th, O'Keefe and McDermott $5.00 implies that O'Keefe and McDermott were credited in that book with reference to ball tickets, the policemen operators' ball. I would have to say that—on March 31st, the word Bookers' $5.00, was applied to the same thing, as Policemen's ball lot. I did not say that—March 31,

Bookers $5.00 was paid to the bookers in exchange for tickets for the policemen's ball.

Q. For what was the five dollars paid on the 31st to the bookers, and the five dollars to O'Keefe and McDermott on April, paid?

Mr. ZOLINE: That is objected to as incompetent, irrelevant and immaterial.

The WITNESS: I never said it was paid.

The COURT: Overruled. Answer the question.

To which ruling of the court the defendants and each of them then and there duly excepted.

147 It was not paid for anything. It represents a future purchase, a notation or record of a future purchase of tickets for the policemen operators' ball. Money of the amount there specified was not paid at any time to my knowledge. The entry was made in the book because the people in the neighborhood, chauf-eurs, cab drivers, etc., bothered my wife to such an extent regarding balls and parties and things, ball tickets especially, that she wanted to know a way out of it, and I told her to make an entry in the book of all people that she desired to patronize in case they came in from time to time, to make the entries as it shows there. There was a police officer named Cooley. He was in the district. I have no doubt he was there on April 7th. I would have to say that that $10.00 was included with the other entries. The money was not paid to Cooley for that. There is a policeman in there by the name of Bartell. $2.00 was another such an entry. The money was not paid to Officer Bartell. There was one time that Cooley stopped a dist*u*bance there by a drunken man and there was a case of going to court in the morning to settle the thing, and Cooley had been up all night and had got his clothes torn or something in the fracas, and I personally offered Cooley $5.00 and he refused to take it, and he didn't take it. I made an entry if he didn't take it. I was going to credit another five dollars' worth of those tickets to him. I did not contribute towards tickets. There was none of those people with possible one exception that came around with the tickets. I don't know who that was. I could not tell you who the bookers were. I never had any dealings with Bernard and Walsh. I don't know who they were. I could not state which one of those officers ever came around with tickets.

148 I don't know of anybody by the name of Little Jack. It must be a chauffeur or somebody. I don't know of any police officer by the name of Little Jack. I know of an Officer O'Connor. I don't know whether he was in that locality or not. I presume he was. I never paid any officer at any time in my life any money for anything. That is a written book of account that was kept there. Day after day as we spent money we made the items in the book unless we forgot something. That was the book in which we transacted business, kept our account. I don't know what those items are: May 3—Police O'Connor $5.00; Police Reddy Cohen, $5.00; Police Lantry, 12 o'clock man, $2.50.

Q. Do you care to look at the book?

A. Yes, sir; I don't know anything about it.

Mr. ZOLINE: It is all objected to as having no relation to the charge at bar.

Mr. PARKIN:

Q. Do you care to look at the book?
A. Yes sir.
Q. What is your answer to the question?
A. I don't know anything about it.

Mr. ZOLINE: I would like a ruling to the objection, if the court please.

The COURT: On what theory is this admissable?

Mr. PARKIN: It will be developed. If counsel has any objection, I will meet it.

The COURT: Have you any reasons why you don't care to disclose your theory?

Mr. PARKIN: Your honor, it goes to the credibility first and foremost, the nature and kind of house second, and intent third.

149 Mr. TYRRELL: There has never been any discussion here about the nature of the house, if the Court please.

Mr. PARKIN: There has never been any admission of it either.

The COURT:

Q. Are any of these entries yours?
A. Yes sir.

The COURT: Well, go ahead.

To which ruling of the court the defendants and each of them duly excepted.

—. I claim Lake County, Indiana as my residence. I was married to this woman May 4th, 1910, at Crown Point, Indiana. Carr & Moore was the firm that did all of the painting that has been done this year at that place, in my building. I think there was an old standing account. I think there was something like fifty dollars paid in the month of May to Mr. Moore on account. I did not make any payment to them; possibly my wife made it. If the entry is there, it was paid. That was about the day before Corder came to the house to go to Milwaukee. I think it was about the 18th. I don't think there is any question in my mind about that. I could not say when she got that postal card, but it was around about that time. The letter I wrote to Corder I did not mail myself; I had it mailed under my direction. It shows here it was mailed on May 19th. We made entries in the book of accounts as the expenditures were incurred unless there would be a slip of a day or two or go back to it every week. (Witness' attention is called to an entry of May 17—Carr & Moore, $50, balance $81.) There was no different rule applied to or followed in the entry of that particular item. If that happened on the 17th it was put down on the 17th. It happened on

150 the 17th. I have no doubt but what the money was paid out. It was not paid by me. I presume my wife told me it was

paid. I could not say if that entry was made before I wrote that letter. I can't say when I wrote it, because I don't know. Possibly the greater portion of the time between the 7th and the 17th of May, this year, was spent at Fox Lake. That book shows a lapse from the 7th to the 17th; no entries on this particular page for that time. I admit writing that letter, but I cannot state when that letter was written. I have a summer home at Cedar Lake. I sold that property there in January of this year. I roomed at Fox Lake, claimed a residence and voted there, but never owned a home there. I owned a piece of property.

Since I married Zoe Willard I have taken charge of the painting and decorating in that house of prostitution, and also any such things as a husband might do in an estate that belonged to his wife.

Q. Well, you have been assisting in running that house, haven't you?

Mr. TYRRELL: That is objected to.
The COURT: Overruled. Answer the question.

To which ruling of the court the defendants by their counsel then and there duly excepted.

A. If doing certain things were to be termed assisting.

I was buying what groceries there was for the house. Taking it down to a straight definition of the word assistance, I have been assisting. I have not been there at night meeting trade that comes there, and handling the trade. I have handled beer in that house. I have made entries in the books in the place, not entirely. I did not look after the financial end of it. I did assist my wife, in
151 the financial arrangements, and in general kept my eye and fingers upon the business as respects her interests. Somebody else has interest there regarding her interest.

Q. During April and May and all of that time this year it has been unlawful, has it not under the rules of the Police Department of the City of Chicago for you to reside or stay in that house of prostitution?

Mr. TYRRELL: That is objected to.
The COURT: Overruled.

To which ruling of the court the defendants by their counsel then and there duly excepted.

A. Not that I know of.

Q. Do you not know, and did you not know while you was residing in that house of prostitution and assisting in the running of it, during April, May and June of this year, that a police order forbid you this to do?

A. No sir.

Mr. TYRRELL: I object to this as immaterial.
The COURT: Overruled.

To which ruling of the court, defendants and each of them by their counsel then and there duly excepted.

I never saw Bessie practice any prostitution. She was in this house for that purpose.

Mrs. Zoe Wilson.

Direct examination.

By Mr. Tyrrell:

My name is Mrs. Charles Wilson. I am one of the defendants in this case. I reside at Cedar Lake, Indiana. I lived in Chicago until about the first of July of this year. I resided at 6126 St. Lawrence Avenue. I had a leasehold on that place mentioned on
152 Dearborn street in this city. The first time I personally took possession of that place was in 1902. The last time was last February. I continued in Possession of it until August or about the first of September last. During that time there were alterations and improvements made in that property. To the best of my recollection the work begun along in March, the latter part of March or April. The front entrance was changed, the front window was changed, and the side window and the side entrance were changed. There was some painting done in the first hall. The carpenters in changing the entrance had put in a lot of new lumber, and of course that had to be decorated in accordance with the balance of the woodwork, and the rest of the hall. That was done by Carr & Moore. That work was not finished while I was there. I knew Earl Corder. I first met him in the early part of April, at my house, at 2034 Dearborn Street, when he came there with this girl Bessie when she applied for board. I did not have any conversation with him at that time. That was the first time I had ever met Bessie. She wanted to know if she could come there to board. I told her that I did not have any room, and I did not care about taking any new girls; that the house was for sale or rent; she said that she heard that I had a nice quiet place and was a good square woman and lived quiet, and that she had been living at the Imperial Café, a hotel and saloon combined, and she had to hustle at the bar, and she had to drink a great deal, and her constitution would not stand it, and she would like to come and board at my house. I believe she went away that day and I think that was all. I next saw her on the following day. No one was with her. I think she came to the house in the afternoon possibly
153 three or four o'clock. I did not see Corder in the meantime. The second time she came she said that if I would take her to board she would room out of the house. I told her "Of course if you come, you come of your own accord." And she said she understood that: I then took her to the house to board. I think she was there five or six days. I just could not remember. Corder called every morning when the house closed, about three O'clock he called and took her home. The second day after Bessie came into the house I had a conversation with Corder about the improvements that were being made there. He said he had been talking with Mr. Wilson in the drug store, and wanted to see him about the painting that was going to be done at the house. I called Mr. Wilson, and he and Mr. Corder went up stairs and looked over the bed rooms. I

did not go with him. When they came down stairs, Corder said that he would do the work cheaper than anybody else; that he was very anxious to get work inasmuch as Bessie his girl was at the house at the time was in trouble, in a family way. He said from dates, he was led to believe that he was responsible for her condition, and that he was very anxious to get work and get money to take her away from there and marry her. He said he would do the work for thirty dollars. We told him that the work was not ready at the time, but that we would notify him when we were ready. So I told him I did not want the house all torn up at once, so he left his card with Mr. Wilson and went away.

All the time Bessie was in the house Corder came in every morning to take her away to her room at three o'clock in the morning.

154 The circumstances of her leaving there were that Officers Wells and Bernard came to the house in uniform in the evening and said that he had a warrant for Bessie, a warrant was sworn out he said by her people, her brother or father I do not know which, and he told her to get her things on to come along. She went to the next room and dressed; she wanted to know if I would bail her out that night. I told her that I could not bail her out, but I might get somebody that would. Well, she said that she did not want to stay in jail over night, and I told her that I would do the best I could to get her out of jail; that was that night. And she left with the officer. I can't remember the date of that; it was in the early part of April; that was three, four or five days after she came in there. I did not go down to the hearing down to court. The girl went home. She didn't tell me she was going home, we heard afterwards; I don't know who told me. She came back the next morning after her first arrest, with her father and brother. That is how I knew that she was going home. I told her to go home inasmuch as her people were interested in her and wanted her to go home, that that was the best place for her, to go home and be a good girl. She said that she would not stay home if she did go home. Her people didn't treat her right, her sister would not walk down the street with her; she was coming back to Chicago again. I told her, if she did, she could not come to my house; she said she was not coming to my house, she would go to somebody else's, and I told her "very well". From that time until Bessie came back, I did not write her again, or hear from her; she did not write to me.

I think Corder was in the house at the time the girls was taken out by her father and brother, when she came back this next morning.

155 After she had gone Corder said he would follow her to the end of the earth if it was necessary to marry her. He walked out right after her.

I never telephoned to Mr. Corder, certainly not. I never met him at the Union depot. I never gave him any money to buy drinks. I did not take him and he never accompanied me on any trip to hunt for Mr. Wilson. I always knew where Mr. Wilson was. I did not say to him at the Union depot or at any place else, that I would like to go down to Milwaukee and bring Bessie to Chicago, but I was feeling bad; and did not ask Corder to go to Milwaukee and find the

girl and bring her back, or that in substance. I did not ask him to write to me from Milwaukee.

After Bessie was taken out of the house, the morning after her arrest, it was perhaps three weeks before I saw Corder again. He came to the house in response to a letter I had instructed Mr. Wilson to write to him and tell him that the work was about to go ahead and that if he wanted the job that he could have it, and he went over the house with me and looked at the work again. We went up stairs. I took him through the bed rooms, the bath room and down to the room in the rear on the first floor. Just Corder and myself were on this trip through the house. Then we stepped into the front parlor and he said that he had been sick and did not have money enough to buy material with and wanted to know if I would advance him money enough to get the material. I asked him how much would be needed; he figured and said it would take ten or eleven dollars. I gave him $11.00 and before I gave it to him, I asked him if he could give me any security. He said no. I asked him if he would give me an I. O. U. and he said "Yes," which he did. This card marked Defts.' Exhibit I got from Mr. Corder. It was written in my front parlor 2034 Dearborn
156 Street. I saw him writing, I could not tell you what he was writing. He handed the card to me with this "I. O. U." on it. That was the occasion when I gave him this $11.00.

Defendants' Exhibit 1 offered in evidence; which paper was received in evidence and is in words and figures as follows:

Calumet 820
Earle Corder
I. O. U. 11.00
656 May St.

Corder was standing in the front parlor when this card was written; he held it in his hand to write it. At the time I gave him this $11.00, there was nothing said or any discussion between Corder and I relative to the $11.00 being used for the purpose of bringing Bessie or anybody else from Milwaukee or any place to that house. I think it was on Thursday or Friday that I gave Corder this $11.00. I think I next saw Corder the next day at my house. After coming in, he wanted to know if Bessie was there, and I told him the officers took her away about an hour ago. This was the time Bessie was arrested. I don't remember of seeing Corder after that. When I gave him this $11.00, he was to begin work the following Monday. He never showed up to do the work. He was not in the house when the girls came there the second time. I did not see him on that occasion. I was in the bath tub when the girls came there the second time. The colored maid came up and announced that Bessie was down stairs with a girl friend and that she was
157 hungry and that she took her down to the dining room to have a cup of coffee, or supper. I said "For goodness sake, what did you let that girl in my house for; don't you know that her father and brother had her taken out of here a month ago?"

I said "Mildred go down stairs and tell those girls to go right out." She said "Why Mrs. Willard, I don't like to do that," she says "the girls say they are broke and want to know if they could not remain in the house until Monday, I don't like to turn them out on the street," and I said "Well then, go and get the police and have them taken out." I was not present when any call was made for the police by her. I didn't go down until the police came, which was perhaps three-quarters of an hour afterwards. I did not go down to the dining room where these girls were eating. I did not — any conversation with either of these girls about buying gowns. I did not ask Corder to go to the station and tell the captain that he would marry Frances to save me from trouble, or for any other reason. I never said to Corder "What in the world is keeping the girls," or words to that effect. I certainly did not ask Corder to hurry the girls to come to Chicago. I did not say to either of these girls "A girl is leaving and you can have her room" or that in substance. I did not say to either of these girls that I was glad that they came. On this Saturday evening when these girls came, I was called down stairs when the officers came. The officers were Walsh and Bernard. The girls were not down stairs when I got there, they were up in my room then. I don't think they changed their clothing then; they had their hats and coats off. That was a wet rainy evening.

I talked with these officers first. I said that there were two girls up stairs that had applied for board; I said that one was a stranger and I never saw her before; the other is a girl by the name
158 of Bessie that was taken out of here about a month ago by her father and brother and I said I did not desire to have any trouble. I said "Do you recall the girl?" He said "No, I don't; where is she?" I said "She is up stairs." And the officer said "Bring them down." I went up and brought the girls down. The officers questioned them and wanted to know their names and where they lived and what they had been doing. They said they had been hustling in Milwaukee on the streets and finally he found out that this Bessie was a girl that he had a letter for. He had the letter with him. The letter was from Judge Heap, I believe, saying that if they found the girl in the neighborhood, to pick her up. Then the officers told the girls to get their clothes on and come along and they went along with them. I did not see them after that. They were not back to my house. During the last visit Bessie and Flossie did not engage in prostitution in that place at all. When I was in the bath room up stairs and the colored maid came up and told me that the girls were there I told her to go down and get the police. I told her first to order the girls out. When I came down she said she had gone out I believe: I don't remember whether she had telephoned or whether she went out of the house and got them; and after that time the police came. I did not say anything to the girls about being back in the house, or to Bessie about being back in the house the second time.

Frances was booked the first time she was in my house. The booking is required by the police rule they have in the neighbor-

hood of keepin*t* a record of the girls that go into every house. That gives their ages. The book contained her name and age, the name that she gave. I did not tell this girl, subsequently, to go
159 down to the police court and give the judge a false statement as *the* their names and their ages*t*, I never heard of such a thing. I did not ask them to do that with the police officer the second time she was there. I believe I was at Fox Lake when I received that postal card marked Government's Exhibit 3, referring to peaches and cream.

Mr. Corder said that he was very anxious to get work to get money so he could take this girl Frances out of the house and marry her and live respectable. This was at the time he came to get the job of painting that this conversation took place. By this "peaches and cream" I thought they were on their honey-moon and had been married.

I never did employ Corder or anybody else as a runner for that house down there; or pay him or anybody else for that.

I never had any conversation with these girls or with Corder or any one about buying them new gowns, or to the effect that I would buy them new gowns and take it out of their services in the house. I never asked Corder *of* anybody else to go to Milwaukee and get these girls, or this girl Bessie; to Milwaukee or any other place. I never heard of such a girl as Flossie until she came to my place that night. I did not know these girls or either of them were coming until they came to my house.

Cross-examination by Mr. PARKIN:

I have been sporting about nine years all told; began in 1893. The first house I was ever in was a Miss Belle Demings at 2016 Dearborn Street; from that house I went to 2015 Armour Avenue. I was a prostitute all of that time. I was not in any other busi-
160 ness, but I was not in the business all of that time since 1893. I was either sporting or in a sporting house since 1893. I am about 33 or 34 years old.

Q. By the way, will you let me take your syringe that you have got there?

A. Pardon*e* me?

Q. You know what I mean.

Mr. ZOLINE: I object to that.

Mr. PARKIN:

Q. You have got it with you?

A. What has that got to do with this case?

Mr. PARKIN:

Q. Have you got it with you?

The COURT: What is it? I didn't get it?

Mr. PARKINS: Why it is something that she uses every few minutes to stimulate herself with opium or morphine, and I want to know if she has got it with her.

The COURT: Proceed to something else.

Mr. ZOLINE: I take exception to the remarks of counsel.

I have been married twice. I first married Dr. Potter. I lived with him about eleven months before I married him. He is in New York City. I believe he is living.

Q. Now, you never had any trouble with Wilson, did you, since you were married to him?

A. What kind of trouble do you mean?

Mr. ZOLINE: That is objected to: she is not on trial for that.

The COURT: I don't know?

To which ruling of the court the defendants and each of them then and there duly excepted.

We have had little quarrels like every married couple have. He was living with me in April or May of this year. At the time Mr. Corder testified he met me at the Union Depot Mr. Wilson was at Fox Lake at the time. Mr. Wilson did not leave me in
161 April or May of this year. There was not a time about that time when I had some family differences and he was not where I could locate him. I had no difficulty at all to my knowledge.

I received this letter. I don't remember of any great difficulty with my husband any more than having a little quarrel, no more than any married couple do. I don't remember of any quarrel; we had lots of quarrels, but I don't remember of th quarrel that you have reference to.

Mr. PARKINS: I offer this letter in evidence as Government's Exhibit 4.

Mr. ZOLINE: Let us see it before it is offered. (Examining letter.) That is objected to; it has absolutely no bearing on the case on trial; it is some letter written by an outsider to this woman.

I did not write a letter to the writer of this letter. I remember of this letter coming to me. There was nothing in this letter that astonished me when I read it.

The COURT: Overruled.

To which ruling of the court, the defendants and each of them then and there duly excepted.

Mr. PARKINS: I want to read this letter.

"NEW YORK CITY, 5/19/1911.

"MY DEAR MRS. WILLARD: Yours received this A. M. I am so glad you have patched up your little differences with your sweetheart for now I know you are yourself again. Yes, I took two pistols with me where you lost your luck-piece. Perhaps you misplaced it. Note what you say of Lilly."

The COURT: Any other reference in there?

Mr. PARKINS: That is all I care for. Signed "Sincerely yours, Mildred." Postmarked Madison Square, New York, May 19, 8 P. M. 1911, and addressed to Miss Zoe Willard, 2034 Dear-
162 born Street, Chicago, Illinois.

I will say that I did have a quarrel and patched it up. I admit that I had lots of quarrels with him. That was not the time I was looking for Willard; nor got Corder to go to the Union Depot with me to look for Willard and chase around the restaurants and saloons in that vicinity looking for him, no sir.

Q. Are you addicted to the use of any drugs, morphine, opium or any drug of that kind.

Mr. ZOLINE: That is objected to as incompetent, irrelevant and immaterial.

The COURT: Overruled.

To which ruling of the court *of* the defendants and each of them then and there duly excepted.

—. I am addicted to Morphine. I last used it before I came into the court room this morning at ten o'clock.

Q. How *often* do you use morphine?

Mr. ZOLINE: That is objected to as incompetent irrelevant and immaterial.

The COURT: Overruled. Answer the question.

To which ruling of the court the defendants by their counsel then and there duly excepted.

A. About two or three times every day.

Q. Have you got your implements with you now, everything to take the dose?

Mr. ZOLINE: I object to that as incompetent, irrelevant and immaterial.

The COURT: Overruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

A. I have.

163 I do remember of having a conversation in this building the night of my arrest with Mr. De Woody, Mr. Dannenberger, and myself. I certainly did — know then as much about the facts of this case as I know now. I was so confused that evening, the arrest was such a shock and everything, I don't recall what I did say, and I was not under oath.

Q. Can you answer my question as to whether or not you told any untruths on that occasion?

Mr. ZOLINE: That is objected to: she has answered she does not remember what she said.

The COURT: Overruled.

To which ruling of the court, the defendants and each of them by their counsel then and there duly excepted.

—. I presume I told the truth that night. I think I did make mention of painting or decorating or changing in my house.

Q. You did not on that night say that you had loaned Earl Corder $11.00 did you?

Mr. ZOLINE: That is objected to. That is not the way to impeach

witnesses if your honor please. Let him put the question and her answer and then see whether she made any such a declaration at that time or not.

The COURT: Overruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

—. On that evening in the presence of Mr. De Woody, Mr. Dannenberg and myself in this building I said I had loaned Mr. Corder $11.00 for which I had his "I. O. U." I don't remember on that evening in that conference if I said anything about
164 Earl Corder having asked a loan or agreeing to make any repairs, decorating or painting in any house over which I had control. It never came up on that occasion if I had told these girls or either of them that they could not come into my house. I certainly don't remember saying, and I don't think I did say that my husband had given Earl Corder money to go to Milwaukee to get the girls. I don't remember.

This postal card about peaches and cream gave me the impression that Earl Corder had married one of the girls. There was only one girl that I knew and that was Bessie. I did not know who the friend was; whether it was a man, woman or child. I didn't know, he might be on a honeymoon with his wife and her friend.

Q. Then if you thought Earl Corder was married, to this girl, when you got that letter, that postal card, why didn't you make that suggestion to these police officers, when they came there into your house and the police officers came there to book her the second time?

Mr. TYRRELL: That is objected to as argumentative.

The COURT: Overruled.

To which ruling of the court the defendants by their counsel then and there excepted.

—. If she were married and her husband had brought her to this house of prostitution, she could have entered. She had told me up stairs in the bath room, when they came up after she had been in the dining room, that they were not married to Corder. It was a misunderstanding if I said that I did not see the girls or either of them until after I saw the police officers; I certainly do withdraw that statement. The girls came up stairs and talked to me while I was in the bath room. It is not a fact that Earl Corder ap-
165 peared first, and a few moments later the girls came and I was coming down stairs, or was at the head of the stairs and I greeted them; that is not the fact. The first time I greeted them was up stairs at the bath room. You have to go up those stairs on which the girls testified they met me, in order to get to the bath room. I met them up there in the bath room before the police officers came. I did not know one of those girls at all. I did not particularly have ill feeling toward that one or the other of them. I did request the girls to go out of the house. They begged me, asked me if they could not stay until Monday. It was my house; I had control over it. My husband was not there all the time to assist me. I don't

know whether Mr. Wilson was in the house on this particular evening or not. I don't believe he was there before the thing wound up; I can't recall. I knew that it was my own house over which I had control and I could put out anybody I chose. I did order the girls out. They did'nt refuse to go. I called the policemen simply because I knew this girl's parents wanted her home, and I wanted to do the right thing and see that she got home; that was the only reason I did not want her in the house. I did not want any more trouble, because she had been taken out before by an officer, her father and brother had been there; I extended my hand to the father and he refused it, and Bessie spoke up "Why don't you take her hand, she is my friend"; I don't remember what the father said. When he was going out he said he would not allow her in any house in Chicago or any place else. So I knew there would be trouble and I did not want her in the house. I don't know what kind of trouble; I knew that if any girl came there whose parents wanted her, surely there would be trouble and I did not have to have it: there are
166 plenty of girls besides getting those kind of girls. Of course, I had done nothing. I knew her people would come there and probably make trouble because she had been there once before. I wanted to help her people get her back. I sent for the police to get her out of the house. They would have gone finally, but they were persuading me to let them stay until Monday, because she said she and Earl were going to be married the following week at Crown Point. There was some talk about marriage that evening before the officers came. I heard the conversation. Earl was not there. It took place in my room. I asked her if she was married to Earl and she said that she was not. There was that much conversation between Frances and I about her marriage to Earl Corder, simply whether or not she was married.

I heard her testimony. I never did bring suit or ask Earl Corder to return any money to me. I did not know that the police order during the time that Mr. Stewart was Chief of Police and again since Mr. McWeeney was Chief of Police, was that no man could have anything to do with the running or the keeping of a house of prostitution in the City of Chicago; I never knew of that. I only purchased hats and shoes and gowns and things for the girls when they wanted me to: if she wanted a gown it was all up to the girl. I certainly did not suggest to these girls about that; or to any of them. I did not make any suggestions to these girls about the room. I believe I had five girls in my house; sometimes I had six, seven, or four and sometimes nine. I could have made room for two more girls. I believe Walsh and Bernard were the police officers who were booking the girls at this time. I don't remember just how long they stayed. I think they were the bookers on March 31st. I did not hand them any money on March
167 31st or on April 5th. I did not hand Officer Cooley or Bartel any money at any time.

When Frances came there the first time, she told me she was — a family way.

Q. Knowing that this girl was in a family way, you took her

into your house and let her sport in your house and took the money that she made on her back, didn't you?

Mr. TYRRELL: I object to that a- purely argumentative.
The COURT: She may answer the question if she did.
To which ruling of the court defendants and each of them by their counsel then and there duly excepted.

—. I did take the money.

L. H. MOORE (in rebuttal).

Direct examination by Mr. FREEMAN:

My name is L. H. Moore. I am a book-keeper, connected with Carr & Moore. I am not Moore of Carr & Moore. I know that Carr & Moore did a job of decorating on the premises at 2034 Dearborn Street in April or May of this year. The last payment was made on that job on May 17th: Fifty dollars; for painting and decorating in the vestibule at 2034 Dearborn Street.

Cross-examination by Mr. TYRRELL:

Prior to that time there was a balance of a small amount carried forward from the old account.

168 W. C. DONNENBERG (in rebuttal) recalled.

I did testify before that I was present at the day of the conference with Mrs. Willard in this building at which Mr. De Woody and you were present.

Q. State whether or not the defendant Mrs. Zoe Willard made a statement there that she had advanced for and on account of decorating $11.00 to Earl Corder and had his "I. O. U." or note therefor?

A. She did not.

Mr. ZOLINE: That is objected to.
The COURT: Overruled.
To which ruling of the court, the defendants and each of them by their counsel then and there duly excepted.

A. She didn't.

Q. Did she then and there make any statement respecting the decorating, repairing, cleaning or doing anything to her house at 2034 Dearborn Street?

A. None whatever.

Mr. ZOLINE: It is clearly a conclusion. I object to it.
The COURT: Overruled.
To which ruling of the court the defendants by their counsel then and there duly excepted.

A. None whatever. She did not mention the word decorating at that conference.

Q. State whether or not at that conference she did or did not say

that Mr. Willard had advanced $11.00 to Corder to go to Milwaukee and get the girls?

A. She did.

Mr. ZOLINE: That is objected to as leading.

The COURT: Overruled.

169 To which ruling of the court, the defendants and each of them by their counsel then and there duly excepted.

Cross-examination by Mr. TYRRELL:

I am Special agent, Department of Justice. I was on this case on May 22, 1911, only. I have been assisting in this trial. The question of improvements on that property on South Dearborn Street did not come up at all in that conference; nothing was mentioned about it.

FRANCES BANCEL (recalled in rebuttal).

I was sworn yesterday. When I came in to the house the second time Zoe Willard was standing at the head of the stairs up stairs.

Q. Did she speak to you at that time?

A. We were down stairs at the time and she asked us to come up there.

Mr. TYRRELL: That was all gone into yesterday; this witness so testified yesterday. I don't see that it strengthens any to repeat.

The COURT: Overruled.

To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.

She said she was glad to see us: glad that we came back. After the bookers came she said that we could go right to work. I told her that I would not, that I was unwell. I was menstruating at that time. She said she would send over to the drug store for something to use. She said she would get "Cundroms" at the drug store.

170 *Charles De Woody.*

Direct examination by Mr. PARKIN:

My name is Charles De Woody. I live in Chicago. I am Division Superintendent, Bureau of Investigations, Department of Justice. My office is 859 Federal Building. I am acquainted with the defendants in this case. I first saw them at a house on Dearborn street about April 22nd. After that I saw them at my office a few hours later. I think special agent Dannenberg, special agent Owtley, Mr. Parkin, and myself were present. There may have been another special agent present. I don't recall his name now. I was present at a conversation or statement by the defendant Zoe Willard at that time and place.

Q. State whether or not at that conference the defendant Zoe Willard stated that she had advanced on account of work

171 to be performed in her house eleven dollars to one Earle Corder?

Mr. HOOVER: That is objected to as a conclusion.
The COURT: Is the question completed?
Mr. PARKIN: Yes, your Honor.
The COURT: Overruled. Answer the question.
To which ruling of the court, the defendants by their counsel, then and there duly excepted.

A. No.
She did not state in that conference at any time the fact that Earl Corder had agreed or was about to do some decorating in her house of prostitution. She stated it was a fact that money had been advanced to Earl Corder; my recollection is either eleven or twelve dollars, to go to Milwaukee to get the two girls Flossie Dion, as I got her name, and Frances Bancel, and that the money was given to Corder by her husband.

Cross-examination by Mr. MARKS:

The conversation at my office in this building, with Mrs. Willard, lasting perhaps twenty minutes. I believe I did not have a shorthand stenographer there, as the conference took place about one or two o'clock in the morning. I do not remember every word that was uttered. I was at the Willard resort that night with special agents Dannenberg and Owfel, and Mr. Parkin, and perhaps one other special agent I could not name anybody else positive. The next time I saw them was in my office that night. It was practically a continuation of the first time I saw them; I came with them *them* to my office and placed them under arrest. I
172 walked through their house. I took nothing from the house personally. I think Mr. Parkin and Mr. Dannenberg took some articles from the house. I do not remember every word of the conversation that took place in my office between Mrs. Willard and Mr. Parkin. At that time there were five or six of the Government people around there. She was there alone in the room with all the parties I have mentioned. Mr. Parkin started the interrogating. I may have taken some part in the questioning. That night I did not interview her for the purpose of testifying — this case. Simply for the purpose of receiving her statement if she agreed to make any, and then in case she changed her statement to go on the stand and testify as to what she said there. In that sense it was for the purpose of testifying in this case. I could not say if anybody there informed her of her constitutional right not to talk.

W. C. DANNENBERG (in rebuttal).

Direct examination by Mr. PARKIN:

Mr. ZOLINE: I think that there was a rule here that anybody that testified in this case shall not be in the Court room. Now, this special agent we were not informed would testify in this case and finally he goes on the stand the last time and he goes the third time on the stand here after hearing what has been going on here and we object to him testifying.

(Mr. Hoover, of counsel for defendants, here states that Mr. Parkin had previously asked his permission for Mr. Dannenberg to remain in the room.)

The COURT: Go ahead.

To which ruling of the court, the defendants by their respective counsel, then and there duly excepted.

173 In the conference with Mrs. Willard in this building, she was advised as to her constitutional right to refuse to answer questions that we might ask her. You told her that and I told her that myself.

Cross-examination by Mr. MARKS:

I told Mr. Freeman that this morning while Mr. De Woody was on the stand.

Mr. PARKIN: That is our case, your Honor.

The foregoing was all the evidence offered or heard on the trial of the above entitled case.

At the conclusion of all the evidence in the case, counsel for the defendants again moved the court to dismiss the indictment for the respective reasons set forth in the demurrer to the indictment, which was denied by the court, — which ruling of the court the defendants by their counsel then and there duly excepted.

Thereupon counsel for the defendants moved the court to instruct the jury to find the defendants and each of them not guilty, which motion was denied by the court, and to which ruling of the court the defendants by their counsel then and there duly excepted.

After the argument, and before the court charged the jury, counsel for the defendants moved the court to give to the jury the following instruction:

174 *Request in Behalf of Each of the Defendants to Incorporate in the Oral Charge to Be Made by the Court to the Jury the Following Instruction, or in Substance.*

The court instructs the jury, as a matter of law, that the gist of the offense in this case is the transporting, or causing to be transported, or aiding or assisting in obtaining transportation for, or in transporting in interstate or foreign commerce, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose. The jury is instructed that the transportation of itself, without carrying out the illegal purpose, is no offense. So that in this case, even if the jury believe from the evidence that the defendants intended to procure the girls in question here or either of them for the purposes of prostitution, or for immoral purposes, yet if you further believe from the evidence that the defendants voluntarily abandoned their evil intention and have refused to carry out said illegal purpose and would not admit said girls into their house for the purposes aforesaid, then the jury is instructed that no offense against the laws of the United States was committed, and the jury must find the defendants not guilty.

But the court overruled said motion, and refused to charge the jury as aforesaid, to which ruling of the court the defendants by their counsel then and there duly excepted.

Thereupon the court charged the jury as follows:

175 *Instructions.*

The COURT: Gentlemen of the Jury, the charge in this case is stated in ten counts in the indictment. In substance the charges are, first, that the defendants caused the girls Flossy Dion and Frances Bancel to be transported from Milwaukee, Wisconsin, to Chicago, Illinois, for the purpose of prostitution. Other counts charge that the defendants aided in the transportation of the girls for that purpose from Milwaukee to Chicago. Stated in various ways, the substance of the charge is, the theory of the Government is, that the defendants gave to the man Corder, Earl Corder, Eleven Dollars in money, with instructions to him, and with the understanding on their part and his part that he would take that money and go to Milwaukee and get one or both of these girls and use that money to bring them here from Milwaukee, paying their fare, the railroad fare and expenses necessary to get them here, it being in the minds of the defendants at the time, that the money was given to Earl Corder and that it should be used to accomplish that purpose.

There is another charge in the indictment that the two defendants with Corder conspired to violate a law of the United States, that is to say, the law which forbids the transportation from one state to another, of a female person for the purposes of prostitution. That these defendants with Corder conspired and combined together to violate that law, and that in the accomplishment of the conspired act, to give effect to that conspiracy, the defendants gave to Corder money to pay the transportation of the girls, and urged him, requested him and solicited him to go to Milwaukee and incite

176 and influence the girls to come to Chicago for the purpose of prostitution. Now, those are the two charges in the indictment in substance.

Now, you and I have nothing to do with the policy of this law. In the exercise of its power under the Constitution of the United States, Congress which is authorized to exercise the legislative power of the People of the United States, have enacted into statute a prohibition against the transportation, or aiding in the transportation, or causing to be transported from one state of the Union to another state of the Union, of a female person for the purpose of prostitution. Now, that is the law, and it is to be considered just as much the law binding upon the jury and the Court, no matter what may be your private views about it as a matter of policy, whether it is good or bad, it is to be considered by you gentlemen, and by yourselves together as just as effective and binding as any other law of the land. So you have nothing to do and I have nothing to do with the question as to whether it is a good law or a bad law. Under our oaths of office we must give it effect just as we give any other law effect.

Now, this is a criminal case and there are two principles that apply here that you do*d* not meet in a civil case known as the presumption of innocence and reasonable doubt. Now, by presumption of innocence is meant that the arrest of the defendants, their indictment by a grand jury, their arraignment here on the charge in the indictment, amount to nothing against them before you, and is no evidence whatever of their guilt. It means that as they sit here, when you were sworn to try this case at the beginning of this hearing, they were as innocent of these charges as any man in this jury box. Now, that is what is meant by the presumption of in-
177 nocence, and it is the law that the presumption of innocence continues to abode with the defendants as a complete protection, unless and until a time comes when a situation is created in consideration of which you can not any longer entertain in their favor the presumption of innocence of the charges. The presumption gives way, because inconsistent with the existence of a situation proved by the evidence in the case. Proved how? As the law expresses it, beyond all reasonable doubt. Now, what is meant by that? It does not mean that frame of mind that a man may work himself up into in an endeavor to find a way out for somebody accused of crime. It does not mean a mere capricious doubt. It does not mean a frame of mind suggested by something occurring in the trial of the case, in the argument of counsel, for instance, not based on evidence in the case. It don't mean that at all. Reasonable doubt is that frame of mind which forbids you to say, all the evidence considered here and weighed, "I have an abiding conviction of the defendants' guilt," or as it has been expressed, "I am convinced of the defendants' guilt to a moral certainty." If you can say that you have such a conviction, then you have no reasonable doubt, and your verdict should be guilty.

On the contrary, if that is your frame of mind, if you are in the frame of mind where if it was a matter of importance to you in your own affairs, away from here, you would pause and hesitate, before acting, then you have got a reasonable doubt.

Now, in this case as in any other criminal case, in any other case of this kind, it is the duty of the jury in the exercise of its great power to bring to bear upon the controversy the common
178 sense judgment of the jury. When you came here, you did not leave that judgment behind. It is because of the fact that you bring to bear upon the controversy, the confusion created by the contradictory statement- of witnesses, this common sense judgment which each man has as the result of his education and experience in the affairs of this world, each man having an education and experience differing from that of each of the other eleven, because of the fact of that common sense judgment of the twelve men is brought to bear upon the controversy that you are better qualified to solve the controversy than any Court, and that common sense judgment you will bring to bear upon this controversy.

Now you are not obliged to believe a thing to be true merely because some witness takes the stand and says it is true. Of course, you have no right to capriciously disregard the statement of anybody

and in determining what weight you give to the testimony of anybody, in whole or in part, that appeared here, including the defendants in the case, you must take into consideration the interest of the witnesses in the matter which is being inquired into here, the interest of the witnesses in the outcome of this lawsuit, the appearance of the witnesses while testifying, their disposition to speak freely and frankly, candidly and openly, *re* reply to inquiry to the reverse of it, their opportunity to know about the thing respecting which they testify, and all other things that you would take into consideration in determining the controversy of fact seriously bent on solving the controversy in a matter of grave concern to you away from here, at home, or in your business. In determining what weight you will give to the testimony of a witness, you must consider among other things, the character of the witness, what the evidence shows the man or woman is, what the man or
179 woman has been, with a view to solving the question of probability, what would such a person probably do in the matter of veracity.

Now, in this case, which is not the kind of a case that ordinarily comes here, it does not belong to the ordinary class of cases that come here, and, therefore, at the conclusion of the taking of the testimony here, you may be in a frame of mind where you do not yearn for another such a case. But in this case there have been circumstances and facts dealing with the under-world, men of the underworld, women of the underworld. Now, in determining what their testimony is worth, those who belong to that stratum of society, remember that you are not to disregard, without consideration, the testimony of such a person. Take into consideration the surroundings, the present, the past life in that respect as in all other respects, of each and all the witnesses.

It is not necessary, to sustain the charges in this indictment, that it should appear that these two girls, or one of them, either of them, after reaching the house of the defendants in Chicago, carried on her occupation, that to which she was inclined or had been devoted. That has nothing to do with this case. The charge is here, as I indicated to you at the outset, the bringing of them here, or causing them to be brought here for that purpose, and if you believe under the evidence in the case that that was in the minds of the defendants, that money was given to the man Corder to be used for that purpose by him, and that he in that way, and with the use of that money got these girls and brought them down here over the railroad, the electric railroad, with that end in view, understood by the defendants in the beginning, then the fact that there was an
180 interference either by the Police Department for some reason by these defendants here, at the suggestion of these defendants here, the offense was complete as charged in this indictment, just as complete as if these two girls had staid in that house for a year and practiced their occupation.

Now you are supreme in the domain of facts. It is for the Court to tell you what the law of the case is, and while you are supreme in settling the facts, the Court in this hearing is supreme in the de-

termination of the law, and as he must accept your answer of guilty or not guilty on these facts, the law is that you must take what I say to you is the law, in considering the case with a view to applying the law to the facts. You are not to be controlled by the Court. You are not to be led away by any argument of any counsel not based on evidence. Don't consider anything that has been stricken out here. Don't speculate on what might have been an answer if one had been allowed by the Court to have been given to a question put and not answer- because of objection. Pay no attention whatever to anything said by any lawyer not based on evidence, as argument. Disregard, discard all those things, considering the arguments of counsel based on evidence for the purpose of enabling you to understand and find out where the truth is here, which after all, when you get down to it, involves one question: what did the defendants have in their minds, and hearts when the money was given to Corder. An answer to that question settles this lawsuit.

You are instructed that the testimony of an accomplice in a crime, that is, a person who actually commits or assists or participates in the commission of a crime, is admissible. It is also the rule that the evidence of an accomplice when not corroborated by
181 some person, or persons not implicated in the crime, as to matters material to the issues, that is matters connecting the defendants with the commission of the crime charged, is to be received with caution by the jury. Now, that is the rule. In that connection I direct your attention to what I have stated before. In determining what weight you will give to the testimony of any witness, you cannot disregard it merely because of that witness's occupation; you cannot disregard the testimony of an accomplice merely because he is an accomplice. In determining what weight you will give to his testimony, consider the fact that he is an accomplice in addition to all the other things I have suggested to you to be considered in determining what the testimony of the witnesses has established in this case, always having in mind that you have no purpose to serve but to let the truth of this controversy be spoken by your verdict, not being influenced by any prejudice, not being influenced by any sympathy which you may have for anybody.

The COURT: Are there any suggestions?

Mr. ZOLINE: One objection if the Court please, is in regard to the definition of the offense for which a specific instruction was given.

The COURT: That instruction where the Court refuses to charge the Jury that the offense is incomplete until prostitution has been practiced by the girls?

Mr. ZOLINE: That the refusal of the defendants to accept the girls——

The COURT: As requested by you in this instruction?

Mr. ZOLINE: Yes.

The COURT: Save your point.

To which ruling of the court, the defendants and each of them then and there duly excepted.

182 Mr. ZOLINE: And then I should like that the Court say a little more on the reasonable doubt, as I believe it was limited only to a moral certainty. That is the only sentence I heard about that.

The COURT: Yes, save your point.

To which ruling of the court the defendants and each of them then and there duly excepted.

183 The COURT: Now gentlemen, there are several forms of verdict here.

If you find the defendants not guilty on all the charges, both charges and all charges, the form will be "We, the jury, find the defendants not guilty."

If you find the defendants both guilty on all charges, the form will be "We, the Jury, find the defendant Charles Wilson, alias Charles Willard, and Zoe Wilson alias Zoe Willard guilty as charged in the indictment."

If you find one guilty and one not guilty, there is a form "We, the Jury, find the defendant guilty" whichever is guilty, whichever one, "As charged in the indictment, and we find the defendant" whichever one, "not guilty." That is for use in case you find one guilty on all charges and one not guilty on all charges.

If you find one of the defendants guilty on one charge and one on the other charge, that is to say, find one of the defendants guilty on the charge of causing these girls to be brought here for the purpose of prostitution as I defined that offense to you at the beginning, and not guilty, for instance on the conspiracy charge, and the other defendant not guilty on any charge, the form will be "We, the jury, find the defendant (blank) guilty as charged in (blank) count in the indictment, and not guilty as charged in the other count of the said indictment, and we find the defendant (blank) not guilty."

You may take the ninth count as being the conspiracy count and the preceding counts, the first eight inclusive state the charges as to the bringing in the girls, causing them to be brought
184 in, or aiding in the transportation of them from Milwaukee to Chicago in various ways. The ninth count is the count that charges conspiracy. You may disregard the tenth count.

Now, if you find one defendant guilty on one count and — guilty on another, and you find another defendant guilty on one and not guilty on another, -here is still another form which you may use to give expression to that conclusion.

Swear the Bailiff.

I send the indictment with you in order that you may identify the charges. You understand the indictment is not evidence.

And thereupon the jury retired to the jury room in charge of a bailiff to consider of their verdict.

The jury thereupon brought in a verdict finding the defendants guilty as charged in the indictment.

Afterwards, to-wit, on the 16th day of December, 1911, the defendants moved for a new trial, but the court overruled said motion,

to which ruling of the court the defendants by their counsel then and there duly excepted.

Thereupon the defendants by their counsel moved the court to arrest the judgment in the above entitled cause for reasons set forth in the demurrers on file in this cause, but the court denied said motion, to which ruling of the court the defendants by their counsel then and there duly excepted.

185 And thereupon the court entered judgment upon the verdict of the jury, and sentenced said defendants to confinement in the penitentiary for three (3) years, and that each of them pay a fine in the sum of Five Hundred Dollars ($500.00), to which judgment and ruling of the court the defendants by their counsel then and there duly excepted.

And now, in furtherance of justice, and that right may be done, the defendants present the foregoing as their bill of exceptions in this case, and pray that the same may be settled and allowed, signed and certified by the Judge as provided by law.

E. N. ZOLINE AND
ADOLPH MARKS,
Attorneys for Defendants.

O. K.
H. W. FREEMAN,
Ass't U. S. Att'y.

186 UNITED STATES OF AMERICA,
Northern District of Illinois, Eastern Division, ss:

In the District Court of the United States for the Northern District of Illinois, Eastern Division.

No. 4798.

UNITED STATES OF AMERICA
vs.
CHARLES M. WILSON, alias CHARLES M. WILLARD, and CATHERINE WILSON, alias ZOE WILLARD.

The foregoing bill of exceptions is correct in all respects and is hereby approved, allowed and settled, and made a part of the record herein.

Done in open court at the December Term, 1911 dated this 15 day of January A. D., 1912.

KENESAW M. LANDIS, *Judge.*

O. K.
H. W. FREEMAN,
Ass't U. S. Att'y.

187 Endorsed: No. 4798. In the U. S. District Court. United States of America vs. Charles M. Wilson, alias etc., Catherine Wilson, alias, etc. Bill of Exceptions. Filed Jan. 16, 1912. T. C. MacMillan, Clerk. Elijah N. Zoline, Attorney and Counselor at Law, Chicago, Ill.

188 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

No. 4798.

THE UNITED STATES
vs.
ZOE WILSON, alias WILLARD, et al.

Præcipe for Record.

The Clerk is hereby instructed to make return of the writ of error to the Supreme Court of the United States, by incorporating into the transcript of the record, the following:

Order to file indictment, entered Dec. 23, 1911.
Indictment.
Order, entered Nov. 25, 1911, leave to file demurrer.
Demurrer.
Order, entered Nov. 29, 1911, overruling demurrer.
Order, entered December 4, 1911, pleas of not guilty.
Order, entered December 11, 1911, cause set for trial.
Order, entered December 12, 1911, proceedings at trial.
Order, entered December —, 1911, proceedings at trial.
Order, entered December 13, 1911, proceedings at trial.
Order, entered December 14, 1911, proceedings at trial.
Order, entered December 15, 1911, ver*dict* of guilty. Order on motion for new trial.
Order, entered December 16, 1911, sentence.
Order, entered December 16, 1911, exception, motion in arrest, motion in arrest overruled, etc.
Petition for Writ of Error.
Assignments of Error.
Order allowing Writ of Error.
Writ of Error.
Bill of Exceptions.
Order of Supersedeas.

ELIJAH N. ZOLINE AND
ADOLPH MARKS,
Attorney- for Defendants.

Received a copy of the foregoing, this 12th day of January, A. D. 1912.

JAMES H. WILKERSON,
By H. W. FREEMAN,
U. S. District Attorney.

[Endorsed:] 4798. Filed Jan. 12, 1912. T. C. MacMillan, Clerk.

189 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the Honorable the Judges of the District Court of the United States for the Northern District of Illinois, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court before you, or some of you, between Charles Wilson, alias Charles Willard, plaintiff in error and the United States of America Defendant in error a manifest error hath happened, to the great damage of the said Charles Wilson, alias Charles Willard as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, the 26 day of December, in the year of our Lord one thousand nine hundred and eleven.

[Seal of Circuit Court U. S., Northern Dist. Illinois, 1855.]

JOHN H. R. JAMAR,
Clerk of the Circuit Court of the United States for the Northern Dist. of Illinois.

Allowed by
HON. WM. R. DAY,
Justice of the Supreme Court of the United States.

190 NORTHERN DISTRICT OF ILLINOIS, *ss:*

In obedience to the within writ, I herewith transmit to the Supreme Court of the United States, a true and complete transcript of the record and proceedings in the foregoing entitled cause, this 16th day of January, A. D. 1912.

[Seal of Dist. Court U. S., Northern Dist. Illinois, 1855.]

T. C. MACMILLAN,
Clerk of the District Court of the United States for the Northern District of Illinois.

[Endorsed:] 4798. Supreme Court of the United States. —— —— vs. —— ——. Writ of Error. Filed Dec. 26, 1911, at — o'clock — m. T. C. MacMillan, Clerk. Copy deposited for the defendant in error in the Clerk's Office, U. S. Circuit Court, Northern District of Illinois.

191 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the Honorable the Judges of the District Court of the United States for the Northern District of Illinois, Eastern Division, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court before you, or some of you, between Catherine Wilson alias Zoe Willard plaintiff in error and the United States of America Defendant in error a manifest error hath happened, to the great damage of the said Catherine Wilson alias Zoe Willard as by her complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, the 26th day of December, in the year of our Lord one thousand nine hundred and eleven.

[Seal of Circuit Court U. S., Northern Dist. Illinois, 1855.]

JOHN H. R. JAMAR,
Clerk of the Circuit Court of the United States
for the Northern Dist. of Illinois.

Allowed by

HON. WILLIAM R. DAY,
Justice of the Supreme Court
of the United States.

192 NORTHERN DISTRICT OF ILLINOIS, *ss:*

In obedience to the within writ, I herewith transmit to the Supreme Court of the United States, a true and complete transcript of the record and proceedings in the foregoing entitled cause, this 16th day of January, A. D. 1912.

[Seal of Dist. Court U. S., Northern Dist. Illinois, 1855.]

T. C. MACMILLAN,
Clerk of the District Court of the United States
for the Northern District of Illinois.

[Endorsed:] 4798. Supreme Court of the United States. —— —— vs. —— ——. Writ of Error. Filed Dec. 26, 1911, at — o'clock — m. T. C. MacMillan, Clerk. Copy deposited for the defendant in error in the Clerk's Office, U. S. Circuit Court, Northern District of Illinois.

193 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

I, T. C. MacMillan, Clerk of the District Court of the United States of America for the Northern District of Illinois, do hereby certify the above and foregoing to be a true, complete and correct transcript of the record in Case No. 4798—wherein The United States is Plaintiff and Charles Wilson, alias Charles Willard, and Zoe Wilson, otherwise known as Zoe Willard, are Defendants, prepared in accordance with præcipe filed herein, as same appears from the records and files in said cause, now remaining in my custody and control.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at my office, at Chicago, in said District, this 16th day of January, A. D. 1912.

[Seal of Dist. Court U. S., Northern Dist. Illinois, 1855.]

T. C. MacMILLAN, *Clerk.*

Additional fee for transcript $45.15.

T. C. MacMILLAN, *Clerk,*
Per J. A. T.

Endorsed on cover: File No. 23,016. N. Illinois D. C. U. S. Term No. 522. Charles Wilson, alias Charles Willard, plaintiff in error, vs. The United States. File No. 23,017. Term No. 523. Catherine Wilson, alias Zoe Willard, plaintiff in error, vs. The United States. Filed January 20th, 1912. File Nos. 23,016 and 23,017.

In the Supreme Court of the United States.

OCTOBER TERM, 1912.

CHARLES WILSON, ALIAS CHARLES WILLARD, plaintiff in error,
v.
UNITED STATES. } No. 522.

CATHERINE WILSON, ALIAS ZOE WILLARD, plaintiff in error,
v.
UNITED STATES. } No. 523.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

MOTION TO ADVANCE AND PLACE ON THE SUMMARY DOCKET.

The Attorney General, on behalf of the United States, moves that these cases be advanced and placed on the summary docket for hearing at an early date during the next term.

Plaintiffs in error were convicted in December, 1911, of violating the White-slave Traffic Act (36 Stat., 825). The constitutionality of that act was

the principal question intended to be submitted for the decision of this court, and it has been subsequently upheld in *Hoke et al.* v. *United States* (227 U. S., 308). The other questions involved relate to the admission of evidence and the court's charge to the jury.

Due notice of this motion has been given opposing counsel.

JAMES C. MCREYNOLDS,
Attorney General.
WILLIAM R. HARR,
Assistant Attorney General.

APRIL 5, 1913.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1913.

No. 168

CHARLES WILSON, ALIAS CHARLES WILLARD,
PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

No. 169

CATHERINE WILSON, ALIAS ZOE WILLARD,
PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

BRIEF OF ARGUMENT FOR PLAINTIFFS IN ERROR.

ELIJAH N. ZOLINE,
Attorney for Plaintiffs in Error.

Geo. Hornstein Co., Printer, Chicago.

SUBJECT INDEX.

ALPHABETICAL INDEX OF CASES CITED IN THIS BRIEF.

Supreme Court of the United States

OCTOBER TERM, 1913.

No......

CHARLES WILSON, ALIAS CHARLES WILLARD,
PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

No......

CATHERINE WILSON, ALIAS ZOE WILLARD,
PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

BRIEF OF ARGUMENT FOR PLAINTIFFS IN ERROR.

STATEMENT.

This case comes to this court upon two separate writs of error allowed upon the same record, to review the judgment of the District Court of the United States for the Northern District of Illinois, the Honorable Kenesaw M. Landis, Judge presiding, sentencing each of the plaintiffs in error to three years' imprisonment in the penitentiary, and

to pay a fine of $500, for violating the so-called "White Slave Act." At the time of the indictment and the allowance of these writs of error, this court had not yet passed upon the constitutionality of that act. As the defendants, by their pleadings, attacked the constitutionality of the statute in question here, the defendants took the case directly to this court, assigning as error, not only the ruling of the court upon the constitutionality of the act, but also other errors based on rulings affecting the trial of the case.

Because of the refusal of the trial court to allow said writs of error, application to issue same were made to the Honorable William R. Day, one of the Justices of this court, who duly allowed same. (Rec., 37.)

Since the allowance of said writs of error, this court has passed upon the constitutionality of the aforesaid statute in the cases of *Hoke & Economodies* v. *United States*, 227 U. S., 308. Therefore the presentation of the case for the plaintiffs in error will be limited here to errors other than the constitutionality of the statute.

And the rule is that even though the constitutional question since the suing out of the writ of error has become a mere abstraction, this court will review the whole case.

Williamson v. *U. S.*, 207 U. S., 425.
Burton v. *U. S.*, 196 U. S., 283.
Horner v. *U. S.*, 143 U. S., 570.

The indictment in this case consists of ten counts, the tenth count having been disregarded by the court.

(Rec., 87.) The first eight counts charge the defendants with transporting or causing to be transported or aiding in the transportation of two girls, Flossie Dion and Frances Bancel, from Milwaukee, Wisconsin, to Chicago, Illinois, for the purpose of prostitution. The ninth count charges that the defendants entered into a conspiracy with Earl Corder to commit an offense against the United States, in this, that they agreed and confederated to bring the aforesaid girls for the aforesaid purpose, to Chicago from Milwaukee, Wisconsin. Demurrers to the indictment were overruled. The defendants pleaded not guilty. A trial was had before a jury, the defendants were found guilty as charged in the indictment, motions for new trial and in arrest of judgment were made and overruled and exception noted and sentence was thereupon pronounced as aforesaid.

The Government offered testimony of James Corder, Frances Bancel and Flossie Dion which tended to prove that Corder was a painter by trade and that the defendants Charles and Zoe Wilson gave Corder eleven dollars with which to bring said girls from the City of Milwaukee in the State of Wisconsin to the City of Chicago in the State of Illinois, for immoral purposes; that Corder went to Milwaukee and persuaded the girls to come to the City of Chicago and took them to the premises at 2034 Dearborn street, in that city, which premises Charles and Zoe Willard owned, and in which premises they kept a house of prostitution.

No evidence was offered by the Government to show that at the time Charles and Zoe Wilson gave

the eleven dollars to Corder, or at any other time, that they directed him to bring the girls from Milwaukee to Chicago, on any **vehicle which is engaged in the business of interstate commerce** or that the subject as to **how** and in **what manner** the girls were to be transported had ever been discussed.

The defendants, by Mildred McCloyne, Lucile Adams, Charles Wilson and Zoe Wilson, gave testimony tending to prove that Corder was a painter by trade, and that at the time in question in this case, the defendants, Charles and Zoe Wilson, were negotiating with Corder for the painting and decorating of their premises, 2034 Dearborn street, and that it was on account of this painting and decorating that plaintiffs in error, Zoe and Charles Wilson, gave the eleven dollars in question to Corder. Their evidence further tended to show that at no time was there any conversation or understanding between them that Corder was to bring these girls from Milwaukee to Chicago and further tends to show that such a thought was never in the minds of the defendants, Zoe and Charles Wilson, and that Corder conceived the idea to exploit the girls for his own gain. The evidence for the defense further tends to show that at the time the girls came to the Wilson house on the night in question, Mrs. Wilson demanded **that they leave the house immediately**, and that they begged to be allowed to stay until the following Monday, and that when they refused to leave, **she called a police officer and had them put out**; that they transacted no business in the place before they were taken out.

During the cross examination of the defendant,

Charles M. Wilson, the Government's attorney, Mr. Parkin, cross examined him regarding certain books which were not touched upon in his direct examination, and which were never offered in evidence, which books tended to prove that the defendants, Charles M. Wilson and Zoe Wilson, had at some other time, unconnected with this case, bribed police officials of the City of Chicago; all of which testimony was objected to by counsel for the defendants, which objections were overruled by the court and to which rulings the defendants, by their counsel, then and there duly excepted. (Rec., 67 and 68.)

During the cross examination of Zoe Wilson the Government's attorney, Mr. Parkin, cross examined her on the question as to whether she and her husband had not led a very troubled married life, and also cross examined her on the question as to whether she was not a morphine fiend, and upon her saying that she was, they made her admit that she had at that time the necessary instruments with her with which to administer the drug. None of this was touched upon in the direct examination, the character of the defendant was not put at issue by her; all of it was objected to by her counsel as irrelevant to the issue, but the objections were overruled by the court, and exceptions were duly taken. (Rec., pp. 74, 75, 76 and 77.)

At the close of all the evidence in the case the defendant and each of them requested the court to instruct the jury to find the defendants not guilty, but the request was denied and an exception duly taken. (Rec., 82.)

The defendants thereupon asked the court to in-

corporate in his charge in substance the following instruction to the jury, applying the doctrine of "*locus penitentia*":

> "The court instructs the jury, as a matter of law, that the gist of the offense in this case is the transporting, or causing to be transported, or aiding or assisting in obtaining transportation for, or in transporting in interstate or foreign commerce, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose. The jury is instructed that the transportation of itself, without carrying out the illegal purpose, is no offense. So that in this case, even if the jury believe from the evidence that the defendants intended to procure the girls in question here or either of them for the purpose of prostitution, or for immoral purposes, yet if you further believe from the evidence that the defendants voluntarily abandoned their evil intention and have refused to carry out said illegal purpose and would not admit said girls into their house for the purposes aforesaid, then the jury is instructed that no offense against the laws of the United States was committed, and the jury must find the defendants not guilty." (Rec., 82.)
>
> But the court overruled said motion, and refused to charge the jury as aforesaid, to which ruling of the court the defendants by their counsel then and there duly excepted. (Rec., 83.)

On the contrary the court charged the jury as follows:

> "It is not necessary, to sustain the charges in this indictment, that it should appear that these two girls, or one of them, either of them, after reaching the house of the defendants in Chicago, carried on her occupation, that to which she was inclined or had been devoted. That has

nothing to do with this case. The charge is here, as I indicated to you at the outset, the bringing of them here, or causing them to be brought here for that purpose, and if you believe under the evidence in the case that that was in the minds of the defendants, that money was given to the man Corder to be used for that purpose by him, and that he in that way, and with the use of that money got these girls and brought them down here over the railroad, the electric railroad, with that end in view, understood by the defendants in the beginning, then the fact that there was an interference either by the police department for some reason by these defendants here, at the suggestion of these defendants here, the offense was complete as charged in this indictment, just as complete as if these two girls had stayed in that house for a year and practiced their occupation." (Rec., 85.)

To which exception was duly taken. (Rec., 86.)

The defendants did not ask the court for a specific instruction on reasonable doubt, but the court instructed the jury, of his own motion, as follows:

"Now, this is a criminal case and there are two principles that apply here that you did not meet in a civil case known as the presumption of innocence and reasonable doubt. Now, by presumption of innocence is meant that the arrest of the defendants, their indictment by a grand jury, their arraignment here on the charge in the indictment, amount to nothing against them before you, and is no evidence whatever of their guilt. It means that as they sit here, when you were sworn to try this case at the beginning of this hearing, they were as innocent of these charges as any man in this jury box. Now that is what is meant by the

presumption of innocence, and it is the law that the presumption of innocence continues to abide with the defendants as a complete protection, unless and until a time comes when a situation is created in consideration of which you cannot any longer entertain in their favor the presumption of innocence of the charges. The presumption gives way, because inconsistent with the existence of a situation proved by the evidence in the case. Proved how? As the law expresses it, beyond all reasonable doubt. Now what is meant by that? It does not mean that frame of mind that a man may work himself up into in an endeavor to find a way out for somebody accused of crime. It does not mean a mere capricious doubt. It does not mean a frame of mind suggested by something occurring in the trial of the case, in the argument of counsel, for instance, not based on evidence in the case. It don't mean that at all. Reasonable doubt is that frame of mind which forbids you to say, all the evidence considered here and weighed, 'I have an abiding conviction of the defendants' guilt,' or as it has been expressed, 'I am convinced of the defendants' guilt to a moral certainty.' If you can say that you have such a conviction, then you have no reasonable doubt, and your verdict should be guilty.

"On the contrary, if that is your frame of mind, if you are in the frame of mind where if it was a matter of importance to you in your own affairs, away from here, you would pause and hesitate, before acting, then you have got a reasonable doubt." (Rec., 84.)

Thereupon counsel for the defendants, before the jury retired, asked the court to be more specific on the subject of reasonable doubt and objected to the limitations placed upon that phrase. (Rec., 87.) But said exception was overruled by the court.

In connection with the conduct of the trial, attention is called to the fact that the trial court made a ruling that he would recognize only one counsel to make objections and take exceptions during trial, notwithstanding that the defendants were represented in court by three counsel, thus the defendants were not accorded that protection to which a defendant is ordinarily entitled in a criminal case.

The following took place (Rec., 51, 52):

"The Court: I shall have to ask you gentlemen, if you all represent the defendant, or does any one of you represent any one particular defendant?

"Mr. Zoline: I have just been watching the testimony, and Mr. Marks is going to cross examine, but when an objection is made, it may suggest itself to any of us.

"The Court: Whom shall I recognize of the defense whilst this witness is on the stand?

"Mr. Zoline: I think your Honor ought to recognize us all.

"The Court: I won't do that; I will recognize one on a side.

"Mr. Zoline: Exception.

"The Court: You decline to have one lawyer represent the defendants?

"Mr. Zoline: Yes, your Honor, in a case of this kind.

"The Court: Very well, then, go ahead.

"Mr. Parkin: Q. Were you to begin practicing prostitution that night?

"Mr. Marks: Wait; I object to that.

"The Court: Just a moment; whom do you represent, Mr. Marks?

"Mr. Marks: I represent the defendants with Mr. Zoline and Mr. Tyrrell.

"The Court: Are you going to represent all of the defendants during this examination, in this trial?

"Mr. Marks: I did not understand what your Honor said.

"The Court: Will you take care of the interest of your client during the examination of this witness or the direct examination of this witness?

"Mr. Marks: Will I do—

"The Court: The rules of this court are that only one lawyer is to represent one side where he represents all of the defendants.

"Mr. Marks: My objection is—

"The Court: Will you represent these defendants during the examination, the direct examination?

"Mr. Marks: I will make the objections as I believe they ought to be made.

"The Court: Will you answer the question?

"Mr. Marks: Oh, yes, I shall.

"The Court: I will recognize you and I don't care to hear from either of the other counsel during the direct examination of this witness.

("To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.)"

Errors Relied Upon.

I.

The court erred in overruling the motion for new trial and in arrest of judgment. (Assign. of Errors 8 and 9, Rec., 29.)

II.

The court erred in permitting the cross examination of plaintiff in error, Catherine Wilson, as to whether or not she is addicted to the use of morphine or other drugs, and whether she then and there had

with her the instruments necessary for the administration of such drugs; also in permitting the District Attorney to make the statement to the jury that said Catherine Wilson was using said instrument every few minutes to stimulate herself with opium or morphine (Assign. of Error 11, Rec., 20, *et seq.*), *viz.:*

"Mr. Parkin: Q. **By the way, will you let me take your syringe that you have got there?** (Rec., 74.)

"A. Pardon me?

"Q. You know what I mean.

"Mr. Zoline: I object to that.

"Mr. Parkin: You have got it with you?

"A. What has that got to do with this case?

"Mr. Parkin: Have you got it with you?

"The Court: What is it? I didn't get it?

"Mr. Parkin: Why it is something she uses every few minutes to stimulate herself with opium or morphine, and I want to know if she has got it with her.

"The Court: Proceed to something else.

"Mr. Zoline: I take exception to the remarks of counsel. * * *

"Q. **Are you addicted to the use of any drugs, morphine, opium or any drug of that kind?** (Rec., 76.)

"Mr. Zoline: That is objected to as incompetent, irrelevant and immaterial.

"The Court: Overruled.

"(To which ruling of the court the defendants and each of them then and there duly excepted.)

"I am addicted to morphine. I last used it before I came into the court room this morning at ten o'clock.

"Q. How often do you use morphine?

"Mr. Zoline: That is objected to as incompetent, irrelevant and immaterial.

"The Court: Overruled. Answer the question.

"(To which ruling of the court the defendants, by their counsel, then and there duly excepted.)

"A. About two or three times every day.

"Q. **Have you got your implements with you now, everything to take the dose?**

"Mr. Zoline: I object to that as incompetent, irrelevant and immaterial.

"The Court: Overruled.

"(To which ruling of the court the defendants and each of them, by their counsel, then and there duly excepted.)

"A. I have."

III.

The court erred in permitting the following cross examination of the defendant, Catherine Wilson (Bill of Ex., Rec., 74; Assign. of Error 11, Rec., 20), tending to show that plaintiffs in error were of quarrelsome disposition and were living unhappily as husband and wife, and that the use of pistols was indulged in, same being as follows:

"Q. Now, you never had any trouble with Wilson, did you, since you were married to him? A. What kind of trouble do you mean?

"Mr. Zoline: That is objected to; she is not on trial for that.

"The Court: I don't know.

"(To which ruling of the court the defendants and each of them then and there duly excepted.)

"We have had little quarrels like every married couple have. He was living with me in April or May of this year. At the time Mr. Corder testified he met me at the Union Depot Mr. Wilson was at Fox Lake at the time. Mr.

Wilson did not leave me in April or May of this year. There was not a time about that time when I had some family differences and he was not where I could locate him. I had no difficulty at all, to my knowledge.

"I received this letter. I don't remember of any great difficulty with my husband any more than having a little quarrel, no more than any married couple do. I don't remember of any quarrel; we had lots of quarrels, but I don't remember of the quarrel that you have reference to.

"Mr. Parkin: I offer this letter as Government's Exhibit 4.

"Mr. Zoline: Let us see it before it is offered. (Examining letter.) That is objected to; it has absolutely no bearing on the case on trial; it is some letter written by an outsider to this woman.

"I did not write a letter to the writer of this letter. I remember of this letter coming to me. There was nothing in this letter that astonished me when I read it.

"The Court: Overruled.

"(To which ruling of the court, the defendants and each of them then and there duly excepted.)

"Mr. Parkin: I want to read this letter.

"'New York City, 5/19/1911.

"'My Dear Mrs. Willard: Yours received this A. M. I am so glad you have patched up your little differences with your sweetheart for now I know you are yourself again. Yes, I took two pistols with me where you lost your luckpiece. Perhaps you misplaced it. Note what you say of Lilly.'

"The Court: Any other reference in there?

"Mr. Parkins: That is all I care for. Signed 'Sincerely yours, Mildred.' Postmarked Madison Square, New York, May 19, 8 P. M. 1911, and addressed to Miss Zoe Willard, 2034 Dearborn Street, Chicago, Illinois.

"I will say that I did have a quarrel and patched it up. I admit that I had lots of quarrels with him. That was not the time I was looking for Willard; nor got Corder to go to the Union Depot with me to look for Willard and chase around the restaurants and saloons in that vicinity looking for him, no, sir.

IV.

The court erred in permitting the Government to cross examine the defendant Charles Wilson upon entries contained in a book relating to the payment of money to police officers O'Keefe and McDermott, the book not being introduced in evidence, and the matter not having been brought out in chief (see Assign. of Error 11, Rec., 29, and Bill of Ex., Rec., 67, 68 and 69), the following took place:

"Q. For what was the five dollars paid on the 31st to the bookers, and the five dollars to O'Keefe and McDermott on April, paid?

"Mr. Zoline: That is objected to as incompetent, irrelevant and immaterial.

"The Witness: I never said it was paid.

"The Court: Overruled. Answer the question.

"(To which ruling of the court the defendants and each of them then and there duly excepted. * * *) (Rec., 67.)

"I don't know of anybody by the name of Little Jack. It must be a chauffeur or somebody. I don't know of any police officer by the name of Little Jack. I know of an Officer O'Connor. I don't know whether he was in that locality or not. I presume he was. I never paid any officer at any time in my life any money for anything. That is a written book of account that was kept there. Day after day as

we spent money we made the items in the book unless we forgot something. That was the book in which we transacted business, kept our account. I don't know what those items are: May 3—Police O'Connor, $5; Police Reddy Cohen, $5; Police Lantry, 12 o'clock man, $2.50.

"Q. Do you care to look at the book? A. Yes, sir; I don't know anything about it.

"Mr. Zoline: It is all objected to as having no relation to the charge at bar.

"Mr. Parkin: Q. Do you care to look at the book? A. Yes, sir.

"Q. What is your answer to the question? A. I don't know anything about it.

"Mr. Zoline: I would like a ruling to the objection, if the court please.

"The Court: On what theory is this admissible?

"Mr. Parkin: It will be developed. If counsel has any objection, I will meet it.

"The Court: Have you any reasons why you don't care to disclose your theory?

"Mr. Parkin: Your Honor, it goes to the credibility first and foremost, the nature and kind of house, second, and intent third.

"Mr. Tyrrell: There has never been any discussion here about the nature of the house, if the court please.

"Mr. Parkin: There has never been any admission of it either.

"The Court: Q. Are any of these entries yours? A. Yes, sir.

"The Court: Well, go ahead.

"(To which ruling of the court the defendants and each of them duly excepted.)"

V.

The court erred in giving the following charge to the jury (Assign. of Error 12, Rec., 33):

"Now, this is a criminal case and there are two principles that apply here that you do not meet with in civil cases known as the presumption of innocence and reasonable doubt. Now by presumption of innocence is meant that the arrest of the defendants, their indictment by a grand jury, their arraignment here on the charge in the indictment, count for nothing against them before you; no evidence whatever of their guilt. It means that as they stood here when you were sworn to try this case at the beginning of this hearing they were as innocent of these charges as any man in this jury box. Now that is what is meant by presumption of innocence, and it is the law that that presumption continues to abide with the defendants as a complete protection, unless and until a time comes when a situation is created in consideration of which you cannot any longer entertain in their favor the presumption of the innocence of the charges. The presumption given away because inconsistent with the existence of a situation proved by the evidence in this case. Proved how? As the law expresses it, beyond all reasonable doubt. Now what is meant by that? It does not mean that frame of mind that a man may work himself up into in endeavoring to find a way out for somebody accused of crime; it does not mean a mere capricious doubt; it does not mean a frame of mind suggested by something occurring in the trial of the case in the argument of counsel for instance, not based on evidence in the case. It don't mean that at all. Reasonable doubt is that frame of mind which forbids you to say, all the evidence considered here and weighed, 'I have an abiding conviction

of the defendants' guilt'; or as it has been expressed, I am convinced of the defendants' guilt to a moral certainty. If you can say that you have such conviction then you have no reasonable doubt and your verdict will be guilty. On the contrary, if that is your frame of mind, if you are in the frame of mind where, if it was a matter of importance to you in your own affair away from here you would pause and hesitate before acting, then you—got a reasonable doubt. * * *"

VI.

The court erred also in instructing the jury as follows (Assignment of Error 12, Rec., 33):

> "In determining what weight you will give to the testimony of a witness you consider among other things the character of the witness, what the evidence shows the man or woman is, what the man or woman has been, with a view to solving the question of probability, what would such a person probably do in the matter of veracity."

VII.

And the court erred in giving the following charge to the jury (Assignment of Error 12; Rec., 34):

> "It is not necessary, to sustain the charges in this indictment, that it should appear that these two girls, or one of them, or either of them, after reaching the house of the defendants in Chicago carried on her occupation, that to which she was inclined, or has been devoted. That has nothing to do with the case. The charge here is, as I indicated to you at the outset, the bringing of them here, or the causing of them to

be brought here for that purpose, and if you believe under the evidence in the case that that was in the minds of the defendants, that money was given to the man Corder to be used for that purpose by the defendants, and was used for that purpose by him, and that he in that way and with the use of that money got these girls and brought them down here over the railroad the electric railroad, with that end in view, understood by the defendants at the beginning, then the fact that there was an interference either by the police department acting upon instructions from Wisconsin, or an interference by the police department for some reason, by these defendants, at the suggestion of these defendants here, the offense was complete as charged in this indictment; just as complete as if these two girls had stayed in that house for a year and practiced their occupation."

VIII.

The court erred in not instructing the jury as requested by the defendants as follows (Rec., 82):

"Request in behalf of each of the defendants to incorporate in the oral charge to be made by the court to the jury the following instruction, or in substance:

"The court instructs the jury, as a matter of law, that the gist of the offense in this case is the transporting, or causing to be transported, or aiding or assisting in obtaining transportation for, or in transporting in interstate or foreign commerce, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose. The jury is instructed that the transportation of itself, without carrying out the illegal purpose, is no offense. So that in this case, even if the jury believe from the evidence that the defendants intended to

procure the girls in question here or either of them for the purposes of prostitution, or for immoral purposes, yet if you further believe from the evidence that the defendants voluntarily abandoned their evil intention and have refused to carry out said illegal purpose and would not admit said girls into their house for the purposes aforesaid, then the jury is instructed that no offense against the laws of the United States was committed, and the jury must find the defendants not guilty."

BRIEF OF ARGUMENT.

POINT I.

The court erred in overruling the motion for new trial and in arrest of judgment. (Assign. of Errors 8 and 9, Rec., 29.)

There is no evidence in the record supporting the allegations in the indictment and no offense against the U. S. was proven.

The indictment in this case is predicated upon Section 2 of the White Slave Traffic Act, approved June 25, 1910. Under that section it is clear that the gist of the offense is to "knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery. * * * Or who shall knowingly procure or obtain or cause to be procured or obtained, or aid or assist

in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce. * * *"

It is respectfully submitted that there is no evidence in the record whatever to show that plaintiffs in error either directed or knew how the girls were to come from Milwaukee to Chicago, whether in a private vehicle or through the instrumentality of a common carrier; nor does the evidence show that they gave any directions in that respect. There is no evidence whatever that plaintiffs in error either obtained the transportation or aided and abetted in procuring the tickets for the transportation of these girls. The statute does not make the mere furnishing of money that may or may not be used for the purpose of purchasing a ticket in interstate commerce, an offense. The Government's case rests entirely upon the evidence of Earl Corder. There is no question but that Earl Corder committed an offense under the White Slave Traffic Act when he brought the girls from Milwaukee, Wisconsin, to Chicago, Illinois, over an electric railway line, same being a common carrier and engaged in interstate commerce. Corder testified, "I purchased the tickets for the return trip with Mrs. Willard's money. They wanted to come on the North-Western railroad, but I did not have enough money with me. So I bought tickets for the Chicago & Milwaukee Electric Railway." (Rec., 44.) The aforesaid testimony shows clearly a lack of design or definite idea to use ANY particular agency in interstate commerce to transport the girls

from Milwaukee to Chicago. The Government has failed to prove the very gist of the offense, and it is respectfully submitted that the court therefor erred in overruling the motion for new trial and in arrest of judgment because the defect goes to the whole case. While the weight of the evidence is for the jury, the question whether there is any evidence to sustain a conviction is a question of law reviewable by an appellate tribunal. The bill of exceptions in this case brings up all the evidence in the case. (Rec., 82.)

Point II.

The court erred in permitting the cross examination of plaintiff in error Catherine Wilson, as to whether or not she was addicted to the use of morphine or other drugs, and whether she then and there had with her the instruments necessary for the administration of such drugs; also in permitting the District Attorney to make the statement that said Catherine Wilson was using said instrument every few minutes to stimulate herself with opium or morphine. (Assign. of Error No. 11, Rec., 20 *et seq.*)

On this point the following took place (Rec., 74):

"Q. By the way, will you let me take your syringe that you have got there? A. Pardon me?

"Q. You know what I mean.

"Mr. Zoline: I object to that.

"Mr. Parkin: You have got it with you?

"The Witness: What has that got to do with this case?

"Mr. Parkin: Have you got it with you?

"The Court: What is it? I didn't get it?

"Mr. Parkin: Why it is something she uses

every few minutes to stimulate herself with opium or morphine, and I want to know if she has got it with her.

"The Court: Proceed to something else.

"Mr. Zoline: I take exception to the remarks of counsel. * * *

"Q. **Are you addicted to the use of any drugs, morphine, opium or any drug of that kind?** (Rec., 76.)

"Mr. Zoline: That is objected to as incompetent, irrelevant and immaterial.

"The Court: Overruled.

"(To which ruling of the court the defendants and each of them then and there duly excepted.)

"I am addicted to morphine. I last used it before I came into the courtroom this morning at ten o'clock.

"Q. How often do you use morphine?

"Mr. Zoline: That is objected to as incompetent, irrelevant and immaterial.

"The Court: Overruled. Answer the question.

"(To which ruling of the court the defendants by their counsel then and there duly excepted.)

"A. About two or three times every day.

"Q. Have you got your implements with you now, everything to take the dose?

"Mr. Zoline: I object to that as incompetent, irrelevant and immaterial.

"The Court: Overruled.

"(To which ruling of the court the defendants and each of them by their counsel then and there duly excepted.)

"A. I have."

When the sad fact that Catherine Wilson, the prisoner at the bar, was a "dope fiend" was brought out one could plainly see the effect it produced on the jury. A great many of them, undoubtedly, rea-

soned that a person who would be a confirmed morphine fiend lacked moral responsibility and was capable of committing any crime while others may have been more charitably inclined and believed that they would do a charitable act in sending the defendant to the penitentiary, where, to their notion, she would be better off there than at large. Of course, no one can tell how much and to what extent the jury was influenced by the testimony complained of in deciding this case. It is clear, however, that it was calculated to injure the defendants on trial and that such was the design of the District Attorney.

At the outset of this argument it will be observed that the defendant Catherine Wilson at no time put her character at issue.

The editor of the American & English Encyclopedia of Law (First Edition), Vol. 3, p. 110, says:

> "IN CRIMINAL PROCEEDINGS, the fact that the person accused has a good character is relevant; but the fact that he has a bad character is irrelevant, unless it is itself a fact in issue, or unless evidence has been given that he has a good character."

And the initiative is with the accused, and if none is offered by the accused the prosecutor can offer none. 11 Am. & Eng. Enc. of Law (2d Ed.), 519, and cases cited.

The defendant not having placed her character at issue, she had a right to be treated like any other witness.

In *Kolb* v. *Union Railroad Co.*, 54 L. R. A., 646, at p. 649, the court said:

> "But that the past life of a witness may be

> ransacked, and his misdeeds paraded before the jury, for the purpose of disgracing and degrading him in their eyes, is so obnoxious to our sense of what is justly due to a person on the witness stand that we cannot consent thereto. If unrestricted liberty were allowed in this respect, no witness, however modest or however venerable, could be sworn without being required, if it should please the opposing counsel, to submit to an investigation into his or her past history, however offensive and humiliating this might be, and notwithstanding the fact that the particular acts of misconduct which might thus be brought out were long ago atoned for and generally forgotten. Such inquisitions the great majority of the courts refuse to permit, and we think rightly so refuse."

The judgment in that case was reversed because the court permitted the plaintiff, who sued for the death of husband, to be cross examined, whether she gave birth to an illegitimate child after the death of the husband. If it was error in a civil case, there was greater error in the case at bar, where the liberty of plaintiff in error was involved.

The direct question here involved has been decided by the Supreme Court of Minnesota in the case of *State* v. *King,* 88 Minn., 175; 92 N. W., 965, where it has been held **that it is improper to ask a witness on cross examination whether he is addicted to the use of opium or morphine or any other drug.**

The inquiry must be directed to the **veracity** of the witness **and not to his peculiar traits of character.**

In the latest edition of 1 Greenl. Ev., Sec. 461a, the rule, as laid down by the present editor, relat-

ing to the impeachment of a witness, is stated as follows:

> "The fundamental trait desirable in a witness is the disposition to tell truth, and hence the trait of character that should naturally be shown in impeaching him is his bad character for veracity. But there has always been more or less support for the use of bad general character, *i. e.*, the man as a whole, not specifically the trait of veracity, as necessarily involving an impairment of veracity. This was the original English doctrine, but it was replaced in the early 1800's by the first mentioned principle, with the exception that the witness was allowed to base his statement as to the other's veracity upon his knowledge of the other's general character. In this country, the better doctrine, that the trait of veracity only could be considered, was early introduced, and this is the rule in the great majority of jurisdictions."

In 29 Am. & Eng. Enc. Law, pp. 804-806 (1st Edition), the rule as to the admissibility of particular acts of misconduct, and also as to particular traits of character, is well stated in the following language:

> "Whether the inquiry into the character of the witness be confined to his reputation for truth and veracity, or extend to his general moral character, the rule is uniform that evidence of specific crimes or of particular acts of misconduct on his part is not admissible for the purpose of impeaching his credit. The impeaching evidence must be confined to the general reputation of the witness. It is also a general rule that peculiar traits of character, aside from that of habitual lying, shall not be made the subject of inquiry for the purpose of impeaching a witness. Thus a witness may not

be impeached by evidence that he is in the habit of associating with lewd and unchaste women; neither is it permissible, as a rule, to impeach a female witness by attacking her reputation for chastity, even where it is proposed to prove that she is a common prostitute."

The general doctrine above announced is sustained by

Wharton, Ev., 3d Ed., Sec. 541.
Rapalje, Witnesses, Sec. 197.
Thomp. Trials, Secs. 524, 525.

The above is in accord with the great majority of decisions throughout the country.

Com. v. *Churchill,* 11 Met., 538.
State v. *Smith,* 7 Vt., 141.
Spears v. *Forrest,* 15 Vt., 437.
Gilchrist v. *M'Kee,* 4 Watts., 380.
State v. *Carson,* 66 Me., 116.
Rudsdill v. *Slingerland,* 18 Minn., 380; Gil., 342.
Atwood v. *Impson,* 20 N. J. Eq., 157.
Bucklin v. *State,* 20 Ohio, 18.
Metze v. *Tuteur,* 77 Wis., 243; 9 L. R. A., 86; 46 N. W., 123.
Dimick v. *Downs,* 82 Ill., 570.
Moore v. *Moore,* 73 Tex., 382; 11 S. W., 396.

Point III.

The court erred in permitting the cross examination of the defendant, Catherine Wilson (Bill of Ex., Rec., 74; Assign. of Error 11, Rec., 20), tending to show that plaintiffs in error were of quarrelsome dispositions, were quarreling with one another and were living unhappily as husband and wife, and that the use of pistols was indulged in.

A detailed statement of what took place is printed on page 12 of this brief, under Point III of the heading, "Errors Relied Upon."

Had this been a divorce case, or a suit for separate maintenance, the testimony admitted here would have been pertinent. But just how it can be made competent, in a case such as this involving the question whether plaintiffs in error aided or abetted in causing the transportation of two girls in interstate commerce, is difficult to perceive. Perhaps the Government can answer this question. We searched our imagination in an effort to discover a possible reason for the admissibility of such evidence in a case like this one and have wholly failed.

The evidence was calculated to prejudice the jury against plaintiffs in error. The evidence did not go to the veracity of the witness, but to peculiar traits of character, which was improper under the authorities cited in argument under Point II, at page 23 et seq., of this brief.

Point IV.

The court erred in permitting the Government to cross examine the defendant, Charles Wilson, upon entries contained in a book relating to the payment of money to police officers O'Keefe and McDermott, the book not being introduced in evidence, and the matter not having been brought out in chief. (See Assign. of Error 11, Rec., 29 and Bill of Ex., Rec., 67, 68 and 69.) The following took place:

"Q. For what was the five dollars paid on the 31st to the bookers, and the five dollars to O'Keefe and McDermott on April, paid?

"Mr. Zoline: That is objected to as incompetent, irrelevant and immaterial.

"The Witness: I never said it was paid.

"The Court: Overruled. Answer the question.

"(To which ruling of the court the defendants and each of them then and there duly excepted.) * * * (Rec., 67.)

"I don't know of anybody by the name of Little Jack. It must be a chauffeur or somebody. I don't know of any police officer by the name of Little Jack. I know of an Officer O'Connor. I don't know whether he was in that locality or not. I presume he was. I never paid any officer at any time in my life any money for anything. That is a written book of account that was kept there. Day after day as we spent money we made the items in the book unless we forgot something. That was the book in which we transacted business, kept our account. I don't know what those items are: May 3—Police O'Connor, $5.00; Police Reddy Cohen, $5.00; Police Lantry, 12 o'clock man, $2.50.

"Q. Do you care to look at the book? A. Yes, sir; I don't know anything about it.

"Mr. Zoline: It is all objected to as having no relation to the charge at bar.

"Mr. Parkin: Q. Do you care to look at the book? A. Yes, sir.

"Q. What is your answer to the question? A. I don't know anything about it.

"Mr. Zoline: I would like a ruling to the objection, if the court please.

"The Court: On what theory is this admissible?

"Mr. Parkin: It will be developed. If counsel has any objection, I will meet it.

"The Court: Have you any reasons why you don't care to disclose your theory?

"Mr. Parkin: Your Honor, it goes to the credibility first and foremost, the nature and kind of house, second, and intent third.

"Mr. Tyrrell: There has never been any discussion here about the nature of the house, if the court please.

"Mr. Parkin: There has never been any admission of it either.

"The Court: Q. Are any of these entries yours?

"A. Yes, sir.

"The Court: Well, go ahead.

"(To which ruling of the court the defendants and each of them duly excepted.)"

It is, indeed, difficult to find any justification for permitting the aforesaid evidence to go in. It was wholly irrelevant and foreign to the issue. Nobody has denied the character of the house and the defendant called to the stand Mildred McCloyne, the housekeeper (Rec., 61), and Lucile Adams, one of the inmates, which made clear the character of the house. (Rec., 63, 64.) The object of the evidence above objected to was to give the jury the impression of the existence of a

collusion between police officers and plaintiffs in error, and tended to show that plaintiffs in error at some other period of time, unconnected with this case, committed the offense of bribery. It was highly prejudicial to plaintiffs in error. There was nothing in the case which called for such testimony. The police officers were not on the stand and the question asked did not go to the impeachment of any one or anything testified to by Wilson in chief. Moreover, the book itself containing the entries was not offered in evidence, and the jury had no means to inspect it. It was no part of the case. It was foreign to the issue. It was no part in chief. It was improper cross examination and prejudicial to the defendants on trial.

Point V.

Error of the court in instructing the jury on presumption of innocence and reasonable doubt.

The court, of its own motion, instructed the jury on the presumption of innocence and reasonable doubt. The entire charge is found at page eighty-three to eighty-seven, inclusive, in the record. The part objected to and which we shall presently consider is this:

> "Now, this is a criminal case and there are two principles that apply here that you did not meet in a civil case known as the presumption of innocence and reasonable doubt. Now by presumption of innocence is meant that the arrest of the defendants, their indictment by a grand jury, their arraignment here on the charge in the indictment, amount to nothing against them before you, and is no evidence

whatever of their guilt. It means that as they sit here, when you were sworn to try this case at the beginning of this hearing, they were as innocent of these charges as any man in this jury box. Now that is what is meant by the presumption of innocence and it is the law that the presumption of innocence continues to abide with the defendants as a complete protection, unless and until a time comes when a situation is created in consideration of which you cannot any longer entertain in their favor the presumption of innocence of the charges. The presumption gives way, because inconsistent with the existence of a situation proved by the evidence in the case. Proved how? As the law expresses it, beyond all reasonable doubt. Now what is meant by that? It does not mean that frame of mind that a man may work himself up into in an endeavor to find a way out for somebody accused of crime. It does not mean a mere capricious doubt. It does not mean a frame of mind suggested by something occurring in the trial of the case, in the argument of counsel, for instance, not based on evidence in the case. It don't mean that at all. Reasonable doubt is that frame of mind which forbids you to say, all the evidence considered here and weighed, 'I have an abiding conviction of the defendants' guilt,' or as it has been expressed, 'I am convinced of the defendants' guilt to a moral certainty.' If you can say that you have such a conviction, then you have no reasonable doubt, and your verdict should be guilty."

It is respectfully submitted that the court unduly limited the doctrine of "presumption of innocence" and "reasonable doubt." The instruction is faulty because the court in no part of the instruction told the jury that the Government must prove its case against the defendant beyond a reasonable doubt.

The phrase used by the court, "The presumption gives way, because inconsistent with the existence of a situation proved by the evidence in the case," is very indefinite and gave the jury the impression that such a situation has actually been proven in the case at bar.

On reasonable doubt the court said:

> "Proved how? As the law expresses it, beyond all reasonable doubt. Now what is meant by that? It does not mean that frame of mind that a man may work himself up into in an endeavor to find a way out for somebody accused of crime. It does not mean a mere capricious doubt. It does not mean a frame of mind suggested by something occurring in the trial of the case, in the argument of counsel, for instance, not based on evidence in the case. It don't mean that at all. Reasonable doubt is that frame of mind which forbids you to say, all the evidence considered here and weighed, 'I have an abiding conviction of the defendant's guilt,' or as it has been expressed, 'I am convinced of the defendant's guilt to a moral certainty.' If you can say that you have such a conviction, then you have no reasonable doubt, and your verdict should be guilty. * * *"

It is respectfully submitted that the court by his charge entirely destroyed the value of the instruction on reasonable doubt and presumption of innocence. (*Coffin* v. *U. S.*, 156 U. S., 432.) He reasoned the "reasonable doubt" and presumption of innocence out against the defendants. The definition given by the trial court of the term "reasonable" doubt falls short and is repugnant to the decided weight of authority.

The first accepted definition on the subject of reasonable doubt is found in the case of *Commonwealth* v. *Webster*, 5 Cush., 295, by Chief Justice Shaw. In that case a reasonable doubt was defined as "that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge."

This case is cited in *Miles* v. *United States*, 113 U. S., 304, 316. In the *Miles* case Mr. Justice Woods said:

> "Attempts to explain the term 'reasonable doubt' do not usually result in making it any clearer to the minds of the jury. * * *"

These words were spoken in connection with the criticism of the following instruction, which was approved (page 310):

> "The prisoner's guilt must be established beyond reasonable doubt. Proof beyond a reasonable doubt is such as will produce an abiding conviction in the mind to a moral certainty that the fact exists that is claimed to exist, so that you feel certain that it exists. A balance of proof is not sufficient. A juror in a criminal case ought not to condemn unless the evidence excludes from his mind all reasonable doubt; unless he be so convinced by the evidence, no matter what the class of the evidence, of the defendant's guilt, that a prudent man would feel safe to act upon that conviction in matters of the highest concern and importance to his own dearest personal interests."

Had Judge Landis given an instruction in similar

terms no objection could have been perceived, but his instruction was tantamount to an instruction that the jury must not search their minds for reasonable doubt as to the guilt of the defendants.

We shall cite here a few additional authorities pertinent to the point under discussion:

In *Burt* v. *State,* 16 S. Rep. (Miss.), 342, at 343, Mr. Justice Whitefield said:

> "The many unwise efforts to define a 'reasonable doubt' are very remarkable, in view of the previous decisions of this court and other courts, and of the fact that the phrase itself, 'beyond a reasonable doubt,' is an expression invented by the common-law judges for the very reason that it was capable of being understood and applied by 'plain men in the jury box.' 2 Thomp. Trials, Sec. 2463. If the common-law judges, in their wisdom, settled on this expression, 'beyond a reasonable doubt,' as the one most easily understood by 'plain men in the jury box,' can we not accept this refined gold without seeking to gild it—this 'lily' without 'painting'? Campbell, J., in *Hamilton* v. *People*, 29 Mich., 194, says: 'If a jury cannot understand their duty when told, they must not convict when they have a reasonable doubt of the prisoner's guilt. They can very seldom get any help from such subtleties as require a trained mind to distinguish. Jurors are presumed to have common sense, and to understand common English, but they are not presumed to have professional, or any high degree of technical or linguistical training.' Mr. Thompson says (2 Thomp. Trials, p. 1817, Sec. 2453), 'that most American courts have, however, felt called upon, in instructing juries in criminal cases, to explain this expression, although it is one of the most exact expressions known to the law, and to define this definition, although the words

convey a more exact idea to the minds of average men than can be derived from any attempt to define them. In so doing they have attempted to lead juries into mazes of subtlety and casuistry in which they were lost themselves, and into which the minds of the "plain men" were incapable of following them.' Mr. Stephens tells us that 'the effort to define a reasonable doubt is an effort to compute that which is not number, and to measure that which is not space.' It ought, it seems to us, to be sufficient in all cases to say: 'If the jury, from the evidence believes beyond a reasonable doubt that,' etc."

In *Frazier* v. *State,* 117 Tenn., 430, at 458, the court quotes from 4 Lea, 179, 180. The court said:

"'The preceding general statement quoted from the charge, to the effect that "**every defendant is presumed to be innocent** until his guilt is established beyond a reasonable doubt by proof," **does not do away with the imperfection of the charge** in reference to HOW far the jury must be satisfied.

"'In this case, after making such statement, the Judge explains what he means by saying: "In other words, * * * the burden is on the state to show by proof to your satisfaction," and that, "if the proof in this case satisfied you, * * * you should convict."

"'These were stated in definition of his meaning, or **equivalents**, and, as such, **limited** his statement to their effect, and thereby made it erroneous. *Railroad Co.* v. *Gower,* 85 Tenn., 473, 474; 3 S. W., 824.

"'It was proper to explain what was meant by them, **and the explanation must be correct, or it is, of course, vitally misleading.** It should have been, not that the proof "must satisfy you," but that it "must satisfy you beyond a reasonable doubt."'

"In another case of the same style, reported in 89 Tenn., 705; 16 S. W., 115, the trial Judge charged as follows:

" 'The law presumes every defendant to be innocent until his guilt is established beyond a reasonable doubt by proof. In other words, where the state prefers a charge against a citizen, before he can be convicted, the burden of proof is upon the state to show by evidence to your satisfaction the guilt of the accused as charged. If the proof satisfies you **beyond a reasonable doubt** that at any time previous to the finding of this indictment, the defendant had carnal knowledge of Helen Randolph in Robertson County, and that at the time of such intercourse she was the daughter of his wife, the defendant is guilty, and you should convict him; if not, you should acquit.'

"The defendant, not being satisfied with this, requested the court to further instruct the jury that, 'in order to convict the defendant, you must find that all the facts necessary to convict are proven to your satisfaction and beyond a reasonable doubt, and if, after weighing, considering and comparing all the testimony, both for the state and the defendant, the jury cannot say that they feel an abiding confidence to a moral certainty of the guilt of the defendant, then they have a reasonable doubt and they should acquit.'

"The trial Judge submitted this request to the jury with this qualification: 'This is the law, gentlemen; but when boiled down, it simply means that, if you are satisfied from the proof in the case the defendant is guilty as charged, you should convict; if not, you should acquit.'

"Judge Snodgrass, speaking for the court, said: 'This is erroneous. The charge was correct as given, **and did not need to be "boiled down,"** because it was itself an elaboration and addition to a former part of the charge, because

that was not full enough, and this was the defect to be cured; but the meaning given it in the explanation was erroneous. It did not "simply mean" that, "if the jury was satisfied from the proof," it should convict. We have already shown that these words are not equivalent of "satisfied beyond a reasonable doubt" in the other case against defendant, and that it was error to so charge.' * * *"

t page 464, of the same opinion, the court said:

"The defendants were entitled to have the jury fully and fairly instructed upon the doctrine of reasonable doubt. They were entitled to have it done in such a manner that the jury should understand that it was necessary for the state to establish the guilt of the defendants, and the existence of every element necessary to constitute the offense of which it was sought to convict them, before they could be found guilty, and if, from the entire evidence in the case, a reasonable doubt existed of the truth of the defense upon which the defendant relied, that they were entitled to a verdict of not guilty. We do not mean to hold that it was necessary to charge upon this subject in every paragraph of the charge, but in such manner that the jury should understand that the rule as to the *quantum* of proof required to convict in criminal cases applies to every material fact in issue. It is immaterial what views of the guilt or innocence of the defendants the trial Judge or this court may entertain. The defendants relied upon and presented evidence to sustain a defense, which, if true, entitled them to an acquittal. They were entitled to have the jury pass upon that defense under proper instructions, and to have the benefit of all safeguards that the law affords those accused of crime. If they were denied any of these rights, they have

not had their constitutional right of a fair trial, upon a charge involving the highest penalty known to the law.

"The words 'substantial' and 'well-founded' are not to be found in any of the definitions of reasonable doubt appearing in our cases, and the use of both, one following the other, is certainly very favorable to the state. We have some cases in which it is said that the doubt must be a 'substantial doubt growing out of the evidence,' and others in which it is said 'the doubt must be well-founded.' In some states similar definitions to that given by the trial Judge have been held to be error. In others the contrary is held. * * *"

In *Brown* v. *State,* 16 S. W. (Miss.), 202, Mr. Justice Woods said:

"By the instruction given for the state, of which complaint is made in the second assignment of error, the learned court undertook the dangerous, if not impossible, task of defining that which is generally held to be indefinable. Said the court to the jury: 'You are not required to know that defendant is guilty; but if you conscientiously believe, from all the testimony, he is guilty, then you should convict him, for then you have no reasonable doubt, and the case is made out to a moral certainty.' We suppose that a conscientious belief is belief as a matter of conscience, and has reference to that which commands the assent of the moral sense of mankind. But evidence is addressed to man's reason with the primary purpose of convincing the intellectual faculty; and, in criminal jurisprudence, that evidence is required, in order to warrant a jury in pronouncing guilty one accused of crime, which, in quality and degree, in character and strength and quantity, satisfies mind and conscience. Evidence may be offered

which may be conscientiously—that is, faithfully—believed, and yet fall far short of convincing the mind of the truth of the proposition which it is offered to support and demonstrate. We fear that the instruction which defined conscientious belief to be such as left no room for reasonable doubt, and rose to the height of moral certainty, was erroneous. In the matter of giving instructions, the beaten way is the safe way; the known paths are the sure ones. Reversed."

Johnson v. *State*, 16 So. Rep. (Miss.), 494:

"The court gave the following instruction to the jury for the state, over defendant's objection: 'A reasonable doubt is a doubt for which a reason may be given, and all the jury have to do to convict the defendant is to conscientiously believe from a consideration of all the testimony in the case, if there are two witnesses, or one witness and corroborating circumstances, that the defendant is guilty, as charged, of willful and corrupt false swearing; and, if the jury so conscientiously believe, they will find the defendant guilty as charged.' There was a verdict of guilty by the jury, and the court sentenced appellant to the penitentiary for two years. Defendant's motions in arrest of judgment and for a new trial were overruled, and he appealed.

"Cooper, C. J. The court erred in informing the jury that mere conscientious belief of the defendant's guilt was belief beyond a reasonable doubt. *Brown* v. *State* (Miss.), 16 South., 202; *Burt* v. *State*, *Id.*, 342."

Under the authorities the charge of the court is erroneous and has deprived the defendants of a substantial protection guaranteed by the law of the land.

Point VI.

Error of the court in excluding from his charge the principle of locus penitentia.

The court erred in not charging the jury in substance, that if they believe from the evidence that the defendants after the girls came to Chicago from Milwaukee voluntarily refused to accept them and put them to an immoral use and have abandoned their evil intention, then no offense was committed, and the court erred in charging the jury that the mere transportation for the immoral purpose without more is sufficient to convict.

The instructions are set out at page 6 of this brief and at pp. 82 and 85 of the record.

It is respectfully submitted that the instruction asked for and refused by the court was based on the evidence of the case submitted on behalf of the defendants, and should have been given, unless, under the statutes in question, the doctrine of *"locus penitentia"* does not apply.

We believe that the **object** and **spirit** of law was to prevent immorality and trafficking in girls, and that this was the **end** that the law aimed at and not at the **mere** act of transportation; therefore, if in **transit,** or **upon arrival,** or **other time, before the final consummation** of the evil intention, the evil design is voluntarily abandoned, without the intervention of an outside agency, the doctrine of *locus penitentia* should be invoked.

The statute in question is a new development in our national life. It is aimed against general im-

morality and the use of the interstate commerce for that purpose. It is not yet generally known. Many a man, who takes a girl, say from New York to Atlantic City, for an immoral purpose, though not necessarily for the purposes of gain or illicit traffic, may either in transit or upon arrival become "conscience stricken" and abandon his intention. Shall he be branded a felon for his mistaken conduct?

Wharton, in his work on Criminal Law (9th Ed.), Sec. 187, says:

> "The true line of distinction is this: If an attempt be voluntarily and freely abandoned before the act is put in process of **final execution**, there being no outside cause prompting such abandonment, then this is a defense, but it is otherwise when the process of execution is in such a condition that it proceeds in its natural course, without the attemptor's agency, until it either succeeds or miscarries."

In *Stephens* v. *State*, 107 Ind., 185, the court said:

> "It is conceded that if the appellant had persisted"—he having stopped of his own free will—"and had succeeded in having sexual intercourse with the prosecuting witness, he would have been guilty of rape. The fair inference, too, from the evidence was that he desired to have such sexual intercourse, and probably would have consummated his desire if circumstances had proved to be, in all respects, favorable to such a result. But to entitle the state to maintain a prosecution for an evil intention, some concurring act must have followed the unlawful thought. As in contract, so in tort or crime. A mere unexecuted intention does not bind or commit the person who conceives or indulges it. So, if a party abandon his evil in-

> tention at any time before so much of the act is done as constitutes a crime such abandonment takes from what has been done its indictable quality."

In *Pinkard* v. *State*, 30 Ga., 757, the defendant was accused with entering into an agreement to steal a negro woman.

Said the court:

> "Notwithstanding the accused may at one time have agreed to engage in this crime, yet if he afterwards changed his mind and abandoned that intention, he is not guilty."

The acts of the defendants as proven constitute a mere attempt. Mere solicitation to commit an offense is not indictable.

State v. *Butler*, 26 W. Va., 90.
Cox v. *People*, 82 Ill., 191.
Thompson v. *People*, 96 Ill., 158.

The following have been held not indictable as attempts:

The purchasing spirituous liquors with intent to introduce it into prohibited territory.

U. S. v. *Stephens*, 8 Sawy., 116.

Delivering poison to a person, asking him to put it in the spring of another person.

Stabler v. *Comm.*, 95 Pa., 318.

The procurement by a prisoner of tools adapted to jail breaking.

State v. *Hurley*, 79 Vt., 28.

Thus, in *Keek* v. *U. S.*, 172 U. S., 445, it was held, that:

> "Mere acts of concealment of merchandise on entering the waters of the U. S., however preparatory they may be and however cogently they may be an intention of thereafter smuggling or clandestinely introducing at best are but steps or attempts not alone in themselves constituting smuggling or clandestine introduction."

P. 446 (from Bacon's Abridgment):

> "As the offense of smuggling is not complete unless some goods, wares and merchandise are actually brought on shore or carried from the shore contrary to law, a person may be guilty of divers practices, which have a direct tendency thereto, without being guilty of any offense."
>
> (Facts. Package of diamonds, handed by diamond merchant to captain of steamer in Europe; carried across Atlantic; seized by revenue officers as boat approached Philadelphia.)

In *People* v. *Murray*, 14 Cal., 159, the defendant was indicted for an attempt to contract an incestuous marriage with his niece. Evidence showed the declarations of his determination to contract the marriage, his elopement with his niece for that avowed purpose, and his request to one of the witnesses to go for a magistrate to perform the ceremony. Court held this did not constitute an attempt, saying:

> "The preparation consists in devising or arranging the means or measures necessary for the commission of the offense; the attempt is the direct movement toward the commission

after the preparations are made. The attempt contemplated by the statute must be manifested by acts which would end in the consummation of the particular offense, but for the intervention of circumstances independent of the will of the party." (Opinion per Justice Field.)

It is desirable for the proper administration of the law that the beneficent rule of *"locus penitentia"* be applied to cases under the present statute.

Point VII.

The court erred in giving the following instruction to the jury (Assign. of Error 12, Rec., 33; Bill of Ex., Rec., 85):

> "In determining what weight you will give to the testimony of a witness you consider among other things the character of the witness, what the evidence shows the man or woman is, what the man or woman has been, with a view to solving the question or probability, what would such a person probably do in the matter of veracity."

The court also said:

> "Now, in this case, which is not the kind of a case that ordinarily comes here, it does not belong to the ordinary class of cases that come here, and, therefore, at the conclusion of the taking of the testimony here, you may be in the frame of mind where you do not yearn for another such a case. But in this case there have been circumstances and facts dealing with the underworld, men of the underworld, women of the underworld. Now, in determining what their testimony is worth, those who belong to

that stratum of society, remember that you are not to disregard, without consideration, the testimony of such a person. Take into consideration the surroundings, the present, the past life in that respect as in all other respects, of each and all the witnesses."

It is respectfully submitted that the instruction is erroneous. It has been held that evidence that a female witness is a common prostitute is not even admissible for the purpose of impeaching her veracity.

Commonwealth v. *Churchill,* 11 Metc. (Mass.), 538, and cases cited.

People v. *Undung,* 108 Cal., 83; 39 Pac., 12.

Conclusion.

It is respectfully submitted that the defendants have not had a fair trial, and that for the errors indicated, the judgment of the District Court of the United States for the Northern District of Illinois ought to be reversed.

Respectfully submitted.

Elijah N. Zoline,
Attorney for Plaintiffs in Error.

In the Supreme Court of the United States.

OCTOBER TERM, 1913.

CHARLES WILSON, ALIAS CHARLES WILLARD, plaintiff in error, v. THE UNITED STATES. } No. 168.

CATHERINE WILSON, ALIAS ZOE WILLARD, plaintiff in error, v. THE UNITED STATES. } No. 169.

IN ERROR TO THE DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS.

BRIEF FOR THE UNITED STATES.

The record shows that the defendants were undoubtedly guilty, and none of the questions which survive since the constitutional question was settled have any merit.

I.

As to the claim that the transportation must be by a railroad within the jurisdiction of the Interstate Commerce Commission.

It is sufficient to quote the language of the statute (36 Stat., 825):

> SEC. 2. That any person who shall knowingly transport or cause to be transported, or

aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court.

II.

As to "locus penitentiæ."

The cases concerning criminal attempts have no bearing, because here the transportation (with the intent) is itself the completed crime, irrespective of what actually happens at the destination.

The Government does not have to wait until the object is carried into effect.

III.

As to the morphine.

The cross-examination objected to showed not merely (as assumed by the argument), that the defendant, Catherine Wilson, was addicted to the drug but that she had taken it that very day shortly before coming into court, and had the outfit in her possession on the witness stand. (Tr., p. 74.)

Even in the cases that hold it error to show a witness to be generally a drug fiend, it has always been recognized as permissible to show that she was under the influence while on the witness stand.

People v. *Webster*, 139 N. Y. 73, pp. 86–87.
State v. *Gleim*, 17 Mont., 17, 31.
State v. *White*, 10 Wash., 611, p. 613.
Williams v. *U. S.*, 6 Ind. T., 1, 14.
Eldridge v. *State*, 27 Fla., 162, 185.
McDowell v. *Preston*, 26 Ga., 528, 535.
Anderson v. *State*, 144 S. W., 281 (Texas, 1912).
30 Am. and Eng. Enc. (2 ed.), 1096.

2 Wigmore Evidence, sec. 934, and cf. sec. 1005e.

1 Whart. Crim. Evid. (10 ed.), sec. 384a.

1 Rice Evidence, p. 625.

This was the purport of the incident as the record plainly shows. (Tr., p. 74.)

IV.

As to quarrels and pistols.

This cross-examination was a trifling matter anyway, but was admissible to rebut a point of the defense.

Corder had testified that Mrs. Wilson asked him to go to Milwaukee to get these two girls and he had placed the conversation at the Union Depot, where he said he had gone with her in a search for Wilson. (Fols. 101, 110.)

On her direct examination, Mrs. Wilson denied this *in toto*, saying:

> I never met him [Corder] at the Union Depot. I never gave him any money to buy drinks. I did not take him and *he never accompanied me on any trip to hunt for Mr. Wilson. I always knew where Mr. Wilson was.* (Fol. 155.)

The cross-examination (Tr., p. 75) assigned as error was relevant to this direct testimony.

There was nothing to the effect that "the use of pistols was indulged in," as stated in the brief of plaintiffs in error (p. 12). The only appearance of pistols was in a cryptic sentence from the letter which finally convinced the witness that she was mistaken in her direct testimony (p. 75). Even there it did not

imply that any pistols had been used by the defendants.

V.

As to payments to the police.

(1) This cross-examination (Tr., 67) showed the character of the house, and so the intent.

(2) Also it tended to rebut a point of the defense. It had been claimed by the defendants that they did not want these girls, because they were afraid of the police, one of the girls having been previously taken away by her father and brother.

Mildred Cloyne, the colored maid, a witness for the defense, testified:

> They [the two girls] came in. I hollered and told Mrs. Wilson there was two girls there. I said that Bessie had returned, and she said "My God, what did you let them in my house for?"

Mrs. Wilson also testified her alarm, though in more delicate language:

> I said "For goodness sake, what did you let that girl in my house for; don't you know that her father and brother had her taken out of here a month ago?"

The fact that the house had nothing to fear from the police was, therefore, a relevant circumstance and proper cross-examination.

(3) Great latitude is allowed in admitting such circumstantial evidence.

Moore v. *U. S.*, 150 U. S., 57.
Thiede v. *Utah*, 159 U. S., 510, 517–518.
Castle v. *Bullard*, 23 How., 172.

And a trial judge has a reasonable discretion as to cross-examination.

Blitz v. *U. S.*, 153 U. S., 308 at 312.

(4) But it was harmless anyway.

The case stood the same without it, similar proof having previously been received without objection. (See Transcript, p. 66, at the bottom.) To paraphrase what this court said in *Cooper Co.* v. *Coates* (21 Wall., 105, 111), the Government's case was "as well without it."

It is inconceivable that it could have added anything to the impression the jury already must have had of the defendants from their profession itself.

CONCLUSION.

The judgment should be affirmed.

WINFRED T. DENISON,
Assistant Attorney General.

SEPTEMBER, 1913.

○

WILSON, ALIAS CHARLES WILLARD, v. UNITED STATES.

WILSON, ALIAS ZOE WILLARD, v. UNITED STATES.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Nos. 168, 169. Submitted October 23, 1913.—Decided February 24, 1914.

The White-Slave Act of June 25, 1910, has been sustained as constitutional. *Hoke* v. *United States*, 227 U. S. 308.

Although the constitutional question on which a case has been brought to this court on direct writ of error has been decided since the writ of error was sued out, this court must retain jurisdiction for the purpose of passing upon the other questions in the record.

Under the White-Slave Act the prohibition is not in terms confined to transportation by common carrier, nor need such a limitation be implied in order to sustain the constitutionality of the act.

The White-Slave Act has the quality of a police regulation although enacted in the exercise of the power to regulate interstate commerce, and it is wholly within the power of Congress to determine whether the prohibition should extend to transportation by others than common carriers.

The agency of one employed to bring prostitutes from one State to another without definite instructions includes power to decide upon the mode and route of transportation.

The cross-examination of a defendant in regard to taking morphine *held* in this case to be proper as it related not to general character, but to the condition of the witness at the moment.

Cross-examination as to the domestic difficulties of one of two defendants married to each other *held* in this case to have been material in order to corroborate the evidence of an accomplice and in other respects relevant to the testimony in chief.

Cross-examination of a defendant in a white slave case in regard to payments made to police officers *held* in this case to have been com-

petent and material to show the character of the house occupied by defendants.

In this case *held* that the charge of the trial court in regard to presumptions of innocence of the accused and their right to acquittal in case of reasonable doubt was sufficiently favorable to the accused.

The offense under the White-Slave Act is complete when the transportation in interstate commerce has been accomplished. There is no *locus pœnitentiæ* thereafter.

THE facts, which involve the validity of convictions and sentences under the White-Slave Act, are stated in the opinion.

Mr. Elijah N. Zoline for plaintiffs in error:

There was no evidence supporting allegations in the indictment. It was error to subject the defendant Catherine Wilson to the cross-examination as to whether she is addicted to the use of drugs. There was error in the cross-examination of same defendant as to her domestic relations. There was error in permitting cross-examination of the defendant Charles Wilson upon entries relating to payment of money to certain police officers. There was error in instructing the jury on presumption of innocence and reasonable doubt. There was error in excluding from charge to jury the principle of *locus pœnitentiæ*. There was error in instructing the jury as to the weight of the evidence.

In support of these contentions, see *Atwood* v. *Impson*, 20 N. J. Eq. 157; *Brown* v. *State*, 16 S. W. Rep. (Miss.) 202; *Bucklin* v. *State*, 20 Oh. St. 18; *Burt* v. *State*, 16 S. W. Rep. (Miss.) 342; *Burton* v. *United States*, 196 U. S. 283; *Coffin* v. *United States*, 156 U. S. 432; *Commonwealth* v. *Churchill*, 11 Met. 538; *Commonwealth* v. *Webster*, 5 Cush. 295; *Cox* v. *People*, 82 Illinois, 191; *Dimick* v. *Downs*, 82 Illinois, 570; *Frazier* v. *State*, 117 Tennessee, 430; *Gilchrist* v. *M'Kee*, 4 Watts, 380; *Hoke* v. *United States*, 227 U. S. 308; *Horner* v. *United States*, 143 U. S. 570; *Johnson* v. *State*,

16 So. Rep. (Miss.) 494; *Keek* v. *United States*, 172 U. S. 445; *Kolb* v. *Union Railroad Co.*, 54 L. R. A. 646; *Metze* v. *Tuteur*, 77 Wisconsin, 243; *Miles* v. *United States*, 113 U. S. 304; *Moore* v. *Moore*, 73 Texas, 382; *People* v. *Murray*, 14 California, 159; *People* v. *Undung*, 108 California, 83; *Pinkard* v. *State*, 30 Georgia, 757; *Railroad Co.* v. *Gower*, 85 Tennessee, 473; *Rudsdill* v. *Slingerland*, 18 Minnesota, 380; *Spears* v. *Forrest*, 15 Vermont, 437; *Stabler* v. *Commonwealth*, 95 Pa. St. 318; *State* v. *Butler*, 26 W. Va. 90; *State* v. *Carson*, 66 Maine, 116; *State* v. *Hurley*, 79 Vermont, 28; *State* v. *King*, 88 Minnesota, 175; *State* v. *Smith*, 7 Vermont, 141; *Stephens* v. *State*, 107 Indiana, 185; *Thompson* v. *People*, 96 Illinois, 158; *Williamson* v. *United States*, 207 U. S. 425; *United States* v. *Stephens*, 8 Sawy. 116; Rapalje on Witnesses, § 197; Thompson, Trials, §§ 524, 525; Wharton, Ev., 3d ed., § 541; Wharton, Crim. Law (9th ed.), § 187.

Mr. Assistant Attorney General Denison for the United States.

MR. JUSTICE PITNEY delivered the opinion of the court.

This case comes here upon two separate writs of error allowed upon the same record, to review judgments of the District Court imposing fine and imprisonment upon each of the plaintiffs in error, upon their conviction on an indictment founded upon the act of Congress of June 25, 1910, commonly known as the White-Slave Act (36 Stat. 825, c. 395).

The case was brought directly to this court, because the constitutionality of the statute was drawn in question. This question has since been settled adversely to plaintiffs in error. *Hoke* v. *United States*, 227 U. S. 308. Nevertheless, we must retain jurisdiction for the purpose of passing upon the other questions in the record. *Horner*

v. *United States*, 143 U. S. 570, 576; *Burton* v. *United States*, 196 U. S. 283, 295; *Williamson* v. *United States*, 207 U. S. 425, 432.

There were numerous counts in the indictment, and a general verdict of guilty. The substance of the charge was that defendants caused and procured two girls to be transported in interstate commerce from Milwaukee, Wisconsin, to Chicago, Illinois, for the purpose of prostitution. There was also a count charging a conspiracy to commit the same offense. The theory of the Government, sufficiently stated in the indictment and supported by evidence at the trial, was that in pursuance of an understanding between defendants and a man named Corder, they gave him eleven dollars in money, with instructions to proceed from Chicago to Milwaukee, induce one or both of the girls to return with him to Chicago, paying their transportation and other expenses out of the eleven dollars, and bring them to a house of prostitution in the latter city kept by the defendants; and that Corder carried out these instructions to the letter, bringing both girls over an interstate electric railway line and escorting them to defendants' house for the purpose of prostitution.

Of the questions of law that are raised, only the following seem to require mention:

1. It is insisted that the offense was not fully proved because there was nothing to show that defendants either directed or knew how the girls were to come from Milwaukee to Chicago, whether in a private vehicle or through the instrumentality of a common carrier. But, in our opinion, in order to constitute an offense under the act it is not essential that the transportation be by common carrier. The statute reads: "That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, . . . any woman or girl for the purpose of prostitution or debauchery, or

for any other immoral purpose, . . . or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, . . . in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, . . . whereby any such woman or girl shall be transported in interstate or foreign commerce, . . . shall be deemed guilty of a felony," etc.

The prohibition is not in terms confined to transportation by common carrier, nor need such a limitation be implied in order to sustain the constitutionality of the enactment. As has already been decided, it has the quality of a police regulation, although enacted in the exercise of the power to regulate interstate commerce (*Hoke* v. *United States*, 227 U. S. 308, 323; *Gloucester Ferry Co.* v. *Pennsylvania*, 114 U. S. 196, 215); and since this power is complete in itself, it was discretionary with Congress whether the prohibition should be extended to transportation by others than common carriers.

The contention that defendants were not within the prohibition of the act because they did not control or instruct Corder in the choice of means of conveyance is not worthy of serious consideration. According to the Government's evidence, Corder was employed by defendants as their agent, and furnished by them with money sufficient for the expenses of the transportation, but without definite instructions as to what mode should be employed. A natural inference was that he should decide upon the mode and select the route; and that such selection was within the scope of his agency.

2. The female defendant offered herself as a witness, and in the course of her cross-examination was asked whether she was addicted to the use of morphine. Having

admitted this, and stated that she had last used it before coming into the court room that morning at ten o'clock, she was asked how often she used it, and whether she had with her the "implements" with which to "take the dose." She replied in the affirmative. This line of examination was excepted to, and is assigned for error on the ground that she had not put her character at issue. But as we read the record, the evidence was not offered or admitted for its bearing upon her character, but rather to show that she was so much addicted to the use of the drug that the question whether at the moment of testifying she was under its influence, or had recovered from the effects of its last administration, had a material bearing upon her reliability as a witness. It seems to us that in this aspect the evidence was admissible. *People* v. *Webster*, 139 N. Y. 73, 87; *State* v. *White*, 10 Washington, 611, 613.

3. Error is assigned upon certain rulings of the trial court permitting cross-examination of the same witness, tending to show that she and the other defendant lived unhappily as husband and wife, were occasionally separated, and (as is said) that they at times indulged in the use of pistols. No evidence was in fact offered or admitted tending to show that weapons had been used, if we except an obscure allusion to "pistols" in a letter that had been written by a person in New York City to the female defendant in Chicago. The use made of this letter was permissible for other reasons. The evidence as to the quarrels and separation was plainly admissible. The Government's case depended mainly upon the testimony of Corder. He appeared to have been an accomplice, hence circumstantial corroboration of his story was especially material. He had testified that Mrs. Wilson asked him to go to Milwaukee for the purpose of getting the two girls, and had mentioned as a circumstance that this conversation took place at the Union Depot in Chicago, where he had met Mrs. Wilson at her request

to aid her in a search for her husband. On her direct examination, she flatly denied this, saying: "I did not take him and he never accompanied me on any trip to hunt for Mr. Wilson; I always knew where Mr. Wilson was." The cross-examination under consideration was entirely relevant to this part of the testimony in chief.

4. It is assigned for error that the court permitted the Government to cross-examine the defendant, Charles Wilson, respecting entries made by him and his wife in their books of account, showing payments of money to certain police officers, and indicating friendly relations, if not coöperation, between defendants, as keepers of a house of prostitution, and members of the police force. This was not objected to as exceeding the limits of proper cross-examination, but only as being "incompetent, irrelevant and immaterial." We think it was admissible as tending to show the character of the house, and as tending to rebut evidence previously introduced by the defense to the effect that Mrs. Wilson had refused to harbor the girls for fear of police interference.

5. Error is assigned upon the instructions of the trial court to the jury respecting the presumption of innocence, and the definition of reasonable doubt. Counsel for defendants preferred no request upon either subject previous to the delivery of the charge. The court instructed the jury in substance that the arrest of defendants, their indictment by the grand jury, and their arraignment, were no evidence whatever of their guilt; that the presumption of innocence meant that at the beginning of the trial they were as innocent of the charges as any man in the jury-box; that this presumption continued to abide with the defendants as a complete protection, unless and until it gave way because inconsistent with the existence of a situation proved by the evidence in the case beyond all reasonable doubt; that by that [reasonable doubt] was meant, not the frame of mind of a man endeavoring to

find a way out for somebody accused of crime, not a mere capricious doubt, not a frame of mind suggested by something occurring in the trial of the case or in the argument of counsel not based on evidence in the case; but that "reasonable doubt is that frame of mind which forbids you to say, all the evidence considered and weighed, 'I have an abiding conviction of the defendants' guilt,' or as it has been expressed, 'I am convinced of the defendants' guilt to a moral certainty.' If you can say that you have such a conviction, then you have no reasonable doubt, and your verdict should be guilty. On the contrary, if that is your frame of mind, if you are in the frame of mind where if it was a matter of importance to you in your own affairs, away from here, you would pause and hesitate, before acting, then you have a reasonable doubt." At the conclusion of the charge counsel for defendants said: "I should like that the court say a little more on the reasonable doubt, as I believe it was limited only to a moral certainty. That is the only sentence I heard about that." The argument here is that the instruction as given is faulty, because the court did not tell the jury that the Government must prove its case against defendants beyond a reasonable doubt. As we read the charge, it meant nothing less than that, and was sufficiently favorable to defendants. *Miles* v. *United States*, 103 U. S. 304, 309, 312; *Hopt* v. *Utah*, 120 U. S. 430, 439, 440; *Dunbar* v. *United States*, 156 U. S. 185, 199; *Coffin* v. *United States*, 156 U. S. 432, 460; *Cochran* v. *United States*, 157 U. S. 286, 299; *Davis* v. *United States*, 160 U. S. 469, 487; *Allen* v. *United States*, 164 U. S. 492, 500; *Dunlop* v. *United States*, 165 U. S. 486, 502.

6. Error is assigned because the court refused to charge the jury, as requested, to the effect that if they should believe from the evidence that defendants, after the girls came to Chicago from Milwaukee, refused to accept them, and voluntarily abandoned their evil intention and re-

fused to carry out the illegal purpose, no offense against the laws of the United States was committed. It is argued that the end and object of the act is to prevent immorality and trafficking in girls, and not the mere act of transportation. But we think that by the plain language of the statute, the offense is complete when "any such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia" as a result of any of the criminal acts previously described. The suggestion that the law contemplates a *locus pœnitentiæ* for defendant, after the journey is ended and the woman or girl has been brought to the intended destination within the walls of a house of prostitution, is obviously untenable.

We find no error in the record.

Judgments affirmed.